HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1603 Florida State Employees' Charitable Campaign
SPONSOR(S): Economic Development & Community Affairs Policy Council, Cruz and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1312

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee	14 Y, 0 N	Haug	Williamson
2)	Economic Development & Community Affairs Policy Council	8 Y, 6 N, As CS	Haug	Tinker
3)				
4)				
5)				

SUMMARY ANALYSIS

On an annual basis, the Department of Management Services, in consultation with the Florida State Employees' Charitable Campaign statewide steering committee screens upwards of 1,400 applications from charities applying to participate in the campaign. Employees are invited to designate their pledged amount to the charity(ies) of their choice and the associated amount(s) are paid through payroll deduction. Monies earmarked to a particular charity are forwarded to that charity (or that charity's parent organization) by the local fiscal agent. Employees may also donate money to the campaign without designating to a specific charity. Such donations are classified as "undesignated funds." Undesignated funds must be given only to charities that provide direct services and are maintained by the local fiscal agent until allocation decisions have been made.

The bill makes changes to the Florida State Employees' Charitable Campaign to provide a uniform distribution process of undesignated funds. The bill eliminates the requirement that undesignated funds go only to participating charities that provide direct services. Instead the bill establishes a pro-rata method as the sole manner for allocation of undesignated funds to participating charitable organizations.

The bill also removes the requirement to establish local steering committees in each fiscal agent area.

This bill is expected to reduce expenditures by the Department of Management Services. It does not have a fiscal impact on local governments.

This bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

On an annual basis, the Department of Management Services (DMS), in consultation with the Florida State Employees' Charitable Campaign (FSECC) statewide steering committee (consisting of 9 appointed state employees) must screen upwards of 1,400 applications from charities applying to participate in the campaign. The vast majority of these applicant organizations (1,200 to 1,300) meets the criteria each year and become participating charities.[1]

The DMS contracts with the United Way of Florida, Inc. (UWOF), to act as the fiscal agent to administer the campaign fundraising.[2] The contract permits the UWOF to withhold costs for the administration of the campaign from pledges received.[3] During the past four campaigns, the administrative costs have ranged from $452,967 to $574,532.

Campaign Year	Administration costs withheld by UWOF	Administration costs as a percentage of campaign proceeds
2008	$466,921	11.5%
2007	$574,532	11.8%
2006	$452,967	10.6%
2005	$477,269	9.6%

The administration of the FSECC is de-centralized into 27 fiscal agent areas that coincide with the UWOF's 27 regional United Way entities that serve as sub-agents to perform the duties of the fiscal agent. During the annual campaign, each state employee receives a booklet that lists the participating charities for the fiscal agent area in which he or she works. In addition to listing the participating United Way charities specific to the fiscal agent area, each booklet also lists the other participating charities. Employees are invited to designate their pledged amount to the charity(ies) of their choice and the associated amount(s) are paid through payroll deduction.

[1] Department of Management Services HB 1603 (2010) Substantive Bill Analysis (March 12, 2010) at 1 (on file with the Governmental Affairs Policy Committee).

[2] DMS 09/10-029 (on file with the Governmental Affairs Policy Committee).

[3] *Id.* at page 11 (Section 4.2)

Employees may also donate money to the campaign without designating a specific charity. Such donations are classified as "undesignated funds." Additional undesignated funds are collected from various state agency hosted fund raising events such as bake sales and organized runs.

Funds collected in each fiscal agent area are handled separately by each local fiscal agent and any funds earmarked to a particular charity are forwarded to that charity (or that charity's parent organization) by the local fiscal agent. All undesignated funds are maintained by the local fiscal agent until allocation decisions have been made.

Historically, all decisions regarding the allocation of undesignated funds was delegated to the local steering committee in each fiscal agent area. These committees are comprised of state employees located in each respective fiscal agent area. Any charity that DMS and the FSECC statewide steering committee approved to participate in a particular fiscal agent area can petition the local steering committee of that area for undesignated funds. The allocation of undesignated funds between local (United Way) charities, national charities, international charities and independent charities is at the sole discretion of each local steering committee.

In 2006, the Legislature created a two-fold allocation process for undesignated funds.[4] "Tier One" undesignated funds determinations occur when charities apply to DMS and certify that they are providing direct services to one or more fiscal agent areas. DMS, in consultation with the FSECC statewide steering committee, reviews applications from the non-United Way charities and determines which ones have met the criteria for Tier One undesignated funds. All eligible charities receive a pro rata share of the Tier One funds (i.e., the same percentage of undesignated funds as the percentage of designated funds they received).[5] In 2008, the FSECC statewide steering committee reviewed applications from 90 different charities with nearly 1,200 fiscal agent area claims. Those applicants had to be analyzed to determine if direct services were provided in those local fiscal agent areas.[6] Charities affiliated with the United Way have been allowed to participate in the Tier One allocation process without having to formally apply, on the premise that they provide direct services in their respective fiscal agent area as a matter of course.[7]

After the Tier One allocation is made, residual undesignated funds remain in most of the fiscal agent areas which are designated as "Tier Two" undesignated funds. The local steering committees are then tasked with allocation of these Tier Two funds to the FSECC participating charities. From the 2008 campaign, $375,074 of Tier Two funds were allocated by 25 of the 27 local steering committees.[8] These local steering committees perform this allocation task without statutory or administrative rule guidance.

Implementation of the two-fold allocation process for undesignated funds necessitated the creation of a second application process administered by DMS. The FSECC statewide steering committee is now involved in a second application process. This has significantly increased the amount of time DMS devotes to administration of the campaign and that the FSECC statewide steering committee must spend meeting and deliberating. In addition, the task of determining whether non-United Way charities are providing direct services in a local fiscal agent area as contemplated by the 2006 change in the law has been difficult to perform due to ambiguities in the statutory language. Of the 2,047.25 hours of professional staff time that DMS devoted to the FSECC in FY 08-09, DMS estimates that approximately 682 hours or a third (33%) was required to administer the undesignated funds process of the campaign.[9] Consequently, the first year of application of the statutory requirement resulted in litigation due to charities challenging the determination that they had not met the criteria.

---

[4] Public Law 2006-221; codified at s. 110.181, F.S.

[5] Section 110.181(2)(e), F.S.

[6] Department of Management Services HB 1603 (2010) Substantive Bill Analysis (March 12, 2010) at 2 (on file with the Governmental Affairs Policy Committee).

[7] *Id.* at 2

[8] Email from Elizabeth Irvin to Eric Haug, April 12, 2010 (on file with the Governmental Affairs Policy Committee).

[9] Department of Management Services HB 1603 (2010) Substantive Bill Analysis (March 12, 2010) at 2 (on file with the Governmental Affairs Policy Committee).

Effect of Proposed Changes

The bill makes changes to the Florida State Employees' Charitable Campaign to provide a uniform distribution process of undesignated funds. The bill eliminates the requirement that only those charities that provide direct services in a local fiscal agent's area may receive undesignated funds and establishes a pro-rata method as the sole manner for allocating undesignated funds to participating charities. As a result, the bill eliminates the undesignated funds application and decision making process that currently requires substantial DMS staff time to administer.

In addition, this change will remove the task of the local steering committees to allocate undesignated funds. The bill will also greatly reduce the administrative workload for DMS by eliminating two application processes.

B. SECTION DIRECTORY:

Section 1: Amends s. 110.181, F.S., deleting the requirement to establish local steering committees and requires undesignated campaign funds to be shared proportionally by the participating charitable organizations based on the percentage of designations.

Section 2: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   This bill is expected to reduce expenditures by the Department of Management Services (*see* Fiscal Comments).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Participating charities that provide non-direct services may receive undesignated funds.

D. FISCAL COMMENTS:

Since the inception of the FSECC in 1993, the Legislature has provided the DMS Division of HRM with an annual appropriation of $17,000 to administer the campaign. The actual administrative costs to DMS for the FSECC in FY 07-08 was $106,457, of which $45,101 was general counsel hours, $7,181 was for other legal costs (including Attorney General hours) and $12,800 was the cost of a settlement agreement. In FY 08-09, actual administrative costs were $153,830, of which $54,043 were related to legal costs. Section 110.181(2)(b), F.S., authorizes DMS to recoup from the campaign the administrative costs that exceed our appropriation, and caps it at 1% of campaign proceeds, declining slightly the past few years (the 2007 campaign raised $4,869,270 but the 2008 campaign only raised $4,364,809). In FY 08-09, DMS absorbed more than $93,000.

$153,830	Grand Total Expenditures for FY 08-09
($ 17,000)	Covered by Annual Appropriation
($ 43,648)	Amount Recouped from Campaign (1% of the $4,364,809 raised in 2008)
$ 93,182	Amount Absorbed by DMS

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to: require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a shared state tax or premium sales tax received by cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 16, 2010, the Economic Development & Community Affairs Policy Council adopted one amendment and reported HB 1603 favorably as a council substitute. The amendment removes the requirement to establish local steering committees in each fiscal agent area.