

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL 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: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 1802

INTRODUCER: Committee on Governmental Oversight and Accountability

SUBJECT: State Group Health Insurance Program

DATE: March 21, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney		<b>go SPB 7120 as introduced</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

SB 1802 expands the group of employees eligible to participate in the State Employee Health Insurance Program (program). Under current law, no person paid from other-personal-services funds is eligible regardless of the numbers of hours the employee works. Under the provisions of this bill, any state employee working an average of 30 or more hours per week will be eligible for health insurance coverage and premium subsidies. In addition, the proration of the state premium contribution will apply only to permanent employees working less than 30 hours per week on average. The bill requires employers participating in the program to submit certain information relating to employees paid from other-personal-services funds to ensure compliance with the federal law.

The bill continues the current level of contributions into health savings accounts for employees participating in the high deductible health insurance plans under the State Employee Health Insurance Program. The authority for the state to contribute to the accounts expires on June 30, 2013. Under this bill, the state can continue to contribute at the current levels (\$500 for individual coverage and \$1,000 for family coverage) for FY 2013-14. Beginning in FY 2014-15, the amount of the contributions by the state will be established in the annual general appropriations act.

The bill also modifies the state prescription drug program by repealing expiration dates on the current provisions. Under this bill, the state prescription drug program will continue without modification.

This bill substantially amends sections 110.123 and 110.131 of the Florida Statutes, repeals section 53 of chapter 2012-119, Laws of Florida, and reenacts section 110.12315 of the Florida Statutes.

## II. Present Situation:

### *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 from which an eligible employee may choose: 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 preferred provider organization (PPO) plan is the statewide, 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.

The standard health maintenance organization (HMO) plan is an insurance arrangement in which the state has contracted with 5 regional HMOs. Two of the HMOs (Capital Health Plan and Florida Health Plan) operate on a traditional fully insured model. The other three (AvMed, Coventry, and United Health Care) operate on a self-insured model under which the state bears the risk of the medical claims.

The program offers two high-deductible health plans with health savings accounts. The Health Investor PPO Plan is the statewide, high deductible health plan with an integrated health saving account. It is also administered by Blue Cross Blue Shield of Florida. The Health Investor HMO Plan is a high deductible health plan with an integrated health saving account in which the state has contracted with the participating HMOs.

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 qualified medical expenses.<sup>1</sup>

The annual contribution from the State Employee Health Insurance Trust Fund is \$500 for single coverage and \$1,000 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, 2012.<sup>2</sup>

### *Employee Eligibility*

Section 110.123, F.S., provides that only employees in permanent positions are eligible to participate in the health insurance program. If the employee in a permanent position works less than a full 40 hour workweek, the state premium contribution is reduced proportionately.

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<sup>1</sup> 26 U.S.C. s. 213(d).

<sup>2</sup> Section 110.131(12), Florida Statutes.

Persons paid from other-personal-services funds are not eligible to participate in the health insurance program regardless of the hours worked.<sup>3</sup>

*Prescription Drug Program*

The State Employee Health Insurance Program has a single pharmaceutical benefit manager. All prescriptions are filled using this vendor and its associated network of pharmacies. The costs of the pharmacy benefit are embedded in the overall premiums paid by the employer and employee as well as the copayments made at the time of purchase.

Section 110.12315, F.S., sets out the prescription copayments. The member receives a 30-day supply limit for retail purchases and a 90-day supply limit for mail order purchases. These copayments are described below:

	<b>Standard Plan</b>		<b>High Deductible Plan</b>	
	<b>Retail</b>	<b>Mail</b>	<b>Retail</b>	<b>Mail</b>
Generic	\$7	\$14	30%	30%
Preferred Brand	\$30	\$60	30%	30%
Non Preferred Brand	\$50	\$100	50%	50%

Section 52 of chapter 2012-119, Laws of Florida, added language to s. 110.12315(2)(b), F.S., to allow the Department of Management Services to implement a 90-day supply limit program for certain maintenance drugs purchased at retail. Pursuant to section 53(1) of chapter 2012-119, Laws of Florida, this authority expires on June 30, 2013, and the statutory language will revert to the language in existence on June 30, 2011.

In addition, section 52 of chapter 2012-119, Laws of Florida, continued a modification of the copayments. Pursuant to section 53(2) of chapter 2012-119, Laws of Florida, the modification to the copayment schedule expires July 1, 2013, and the statutory language will revert to the language in existence on December 31, 2010. The copayments in effect on December 31, 2010, are shown in the table below.

	<b>Standard Plan</b>	
	<b>Retail</b>	<b>Mail</b>
Generic	\$10	\$20
Preferred Brand	\$25	\$50
Non Preferred Brand	\$40	\$80

*Employer and Employee Premiums*

The state program is considered employer-sponsored since the state contracts with providers and contributes a substantial amount on behalf of the employee toward the cost of the insurance premium. The state’s employer contribution is part of a state employee’s overall compensation.

<sup>3</sup> Section 110.131(3), Florida Statutes.

The employee pays a set monthly premium for either a single or family plan. The state pays the remainder of the cost of the premium.

The following chart shows the monthly contributions for the state and the employee to employee health insurance premiums beginning May 2013:<sup>4</sup>

Subscriber category		Standard Plans			High Deductible Plans		
		Employer	Employee	Total	Employer	Employee	Total
Career Service	Single	\$537.74	\$50.00	\$587.74	\$537.74	15.00	\$552.74
	Family	\$1,149.14	\$180.00	\$1,329.14	\$1,149.14	\$64.30	\$1,213.44
	Spouse	\$1,299.16	\$30.00	\$1,329.16	\$1,183.44	\$30.00	\$1,213.44
Others	Single	\$579.40	\$8.34	\$587.74	\$544.40	\$8.34	\$552.74
	Family	\$1,299.14	\$30.00	\$1,329.14	\$1,183.44	\$30.00	\$1,213.44

*Patient Protection and Affordable Care Act*

The federal Patient Protection and Affordable Care Act impacts the State Employee Health Insurance Program by requiring large employers<sup>5</sup> to offer affordable<sup>6</sup> coverage that meets minimum standards to its full time employees.<sup>7</sup>

If the large employer fails to comply with the federal law, various penalties and assessments may be levied. If the employer fails to offer affordable coverage to its full-time employees, the employer may be assessed a \$3,000 annual penalty for each full-time employee who enrolls in an exchange and receives a federal subsidy. If the employer fails to offer any coverage to all or a portion of its employees and any of its full-time employees enroll in an exchange and receive a subsidy, the employer may be assessed a \$2,000 annual penalty for each full-time employee (regardless of whether the employee was offered coverage or not).

The Self-Insurance Estimating Conference (Conference) has reviewed the potential impacts that the Patient Protection and Affordable Care Act may have on the State Employee Health Insurance Program.

Two key provisions in the current Florida law cause some concern regarding the potential imposition of penalties for noncompliance with the federal law. Those provisions relate to the prohibition on persons paid from other-personal-services (OPS) funds from participating in the State Employee Health Insurance Program and the requirement that part-time employees pay a prorated share of the premium contribution that the employer would otherwise pay.

In terms of the OPS limitation, the Conference determined that the state may be subject to \$321.8 million penalty annually if the current law prohibition continued for OPS employees working an average of 30 or more hours per week. The Conference also determined that offering the

<sup>4</sup> Section 8(3) of chapter 2012-118, Laws of Florida.

<sup>5</sup> For purposes of this discussion, “large employer” means any employer that employed at least an average of 50 fulltime employees on business days during the preceding year. See 26 U.S.C. s. 4980H.

<sup>6</sup> The insurance must pay at least 60% of the cost of the covered health care expenses, and the premium paid by the employee may not exceed 9.5% of the employee’s income earned from the employer. See Notice 2011-73 from the Internal Revenue Service.

<sup>7</sup> Any employee who works more than an average of 30 hours per week is deemed to be a full-time employee. See 26 U.S.C. s. 4980H.

employees coverage and a premium structure identical to current permanent full-time employees would generate an additional \$33.48 million in contributions and an additional \$35.60 million in expenses for the Trust Fund in FY 2013-14.<sup>8</sup> A major portion of the additional revenues would come from premiums paid by state agencies and universities.

In terms of the “proration” issue, no new revenues or expenses would be realized by the Trust Fund. Rather, costs would be shifted from the employees (currently paying a portion of the state premium) to the state agencies and universities (prospectively paying the full state contribution for any employee working 30 or more hours). This cost shift is estimated to be roughly \$0.4 million in FY 2013-14.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 110.123, F.S., to redefine the terms “full-time state employees” and “part-time state employees” so that persons paid from OPS funds and working, or expected to be working, an average of 30 or more hours per week will be eligible to participate in the State Group Health Insurance Program. In addition, part-time permanent employees who work an average of 30 or more hours per week will not have to pay a portion of the state health insurance premium otherwise paid by the employer. The bill also extends the authority for the state to continue to contribute to participants’ health savings accounts. Beginning in FY 2014-15, the amount to be contributed by the state will be set in the annual general appropriations act. The bill requires that employers participating in the program to submit certain information relating to employees paid from other-personal-services funds to ensure compliance with the federal law.

**Section 2** reenacts s. 110.12315, F.S., to save the current language contained in paragraph (2)(b) from reverting to the text that existed on June 30, 2011, and save the current language contained in paragraph (7)(a) from reverting to the text that existed on December 31, 2010.

**Section 3** repeals section 53 of chapter 2012-119, Laws of Florida, to eliminate the direction to revert the language of s. 110.12315, F.S., to prior text.

**Section 4** amends s. 110.131, F.S., to authorize certain other-personal-services employees to participate in the state group insurance program.

This bill takes effect on July 1, 2013.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>8</sup> Impact on the State Health Insurance Program of the Patient Protection and Affordable Care Act, adopted February 28, 2013, by the Self-Insurance Estimating Conference, page 7.

<sup>9</sup> Id., at page 8.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The State Employee Health Insurance Trust Fund is expected to experience \$33.5 million of additional revenues and \$35.6 million of additional expenses in FY 2013-14.

State agencies and universities participating in the State Group Health Insurance Program are expected to incur roughly \$36 million in new premium costs during FY 2013-14.

Employers participating in the State Group Insurance Program may incur additional costs in reporting information to the Department of Management Services relating to employees paid from other-personal-services funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**B. Amendments:**

None.