

By Senator Smith

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1                                   A bill to be entitled  
2       An act relating to deferred compensation; amending s.  
3       112.215, F.S.; prohibiting contracts with investment  
4       providers and recordkeepers for state or local  
5       deferred compensation programs from exceeding a 5-year  
6       term; specifying requirements for the competitive  
7       solicitation or bidding process for investment  
8       providers and recordkeepers; defining the term  
9       "professionally qualified independent consultant";  
10      prohibiting specified persons from participating in  
11      the selection of an investment provider or  
12      recordkeeper under certain circumstances; requiring  
13      the administrator of a local deferred compensation  
14      program to comply with certain fiduciary standards;  
15      authorizing a public body or official that establishes  
16      a local deferred compensation program to organize an  
17      oversight committee; providing an effective date.

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

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21       Section 1. Paragraph (a) of subsection (4) of section  
22       112.215, Florida Statutes, is amended, present paragraphs (b)  
23       through (e) of subsection (4) are redesignated as paragraphs (c)  
24       through (f), respectively, a new paragraph (b) is added to that  
25       subsection, and subsections (5) and (14) of that section are  
26       amended, to read:

27       112.215 Government employees; deferred compensation  
28       program.—

29       (4) (a) The Chief Financial Officer, with the approval of

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30 the State Board of Administration, shall establish such plan or  
31 plans of deferred compensation for state employees, including  
32 all such investment vehicles or products ~~incident thereto, as~~  
33 ~~may be~~ available through~~7~~, or offered by~~7~~, qualified companies or  
34 persons, and may approve one or more such plans for  
35 implementation by and on behalf of the state and its agencies  
36 and employees. The Chief Financial Officer, or the administrator  
37 delegated responsibility for administration of the plan under  
38 paragraph (d), may not enter into a contract with an investment  
39 provider or recordkeeper for purposes of offering investment  
40 vehicles or products to participants in the deferred  
41 compensation program or recordkeeping services for the program  
42 for a term to exceed 5 years. Before the end of each contract  
43 term, the Chief Financial Officer or plan administrator shall  
44 initiate a competitive solicitation for the procurement of  
45 investment providers and recordkeepers. The solicitation must be  
46 overseen by a professionally qualified independent consultant  
47 procured through the competitive solicitation processes  
48 authorized in s. 287.057. For purposes of this paragraph, the  
49 term "professionally qualified independent consultant" means a  
50 consultant who is professionally qualified based on education  
51 and experience to evaluate the performance of investment  
52 providers and recordkeepers, not associated in any manner with  
53 an investment provider or recordkeeper responding to the  
54 competitive solicitation, and not offering any products or  
55 services other than overseeing the procurement process.

56 (b) If the Chief Financial Officer, plan administrator, or  
57 any other person involved with the selection of an investment  
58 provider or recordkeeper has had any direct interest in any

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59 contract, privilege, or other benefit granted by the investment  
60 provider or recordkeeper in the preceding 2 years, he or she  
61 must abstain from participating in any decision regarding the  
62 selection of the investment provider or recordkeeper.

63 Establishing a personal account with an investment provider or  
64 recordkeeper or taking a distribution from a personal account  
65 does not constitute a direct interest for purposes of this  
66 paragraph.

67 (5) Any county, municipality, or other political  
68 subdivision ~~of the state~~ may by ordinance, and any  
69 constitutional county officer under s. 1(d), Art. VIII of the  
70 State Constitution ~~of 1968~~ may by contract agreement or other  
71 documentation constituting approval, adopt and establish for  
72 itself and its employees a deferred compensation program. The  
73 ordinance shall designate an appropriate official of the county,  
74 municipality, or political subdivision to approve and administer  
75 a deferred compensation plan or otherwise provide for such  
76 approval and administration. The ordinance shall also designate  
77 a public official or body to make the determinations provided  
78 for in paragraph (6) (b). If a constitutional county officer  
79 elects to adopt and establish for that office and its employees  
80 a deferred compensation program, the constitutional county  
81 officer shall be the appropriate official to make the  
82 determinations provided for in this subsection and in paragraph  
83 (6) (b).

84 (a) A county, municipality, political subdivision, or  
85 constitutional county officer may not enter into a contract with  
86 an investment provider or recordkeeper for purposes of offering  
87 investment vehicles or products to participants in the deferred

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88 compensation program or recordkeeping services for the program  
89 for a term to exceed 5 years. Before the end of each contract  
90 term, the public official or body shall initiate a public bid  
91 for the procurement of investment providers and recordkeepers.  
92 The public bid must be overseen by a professionally qualified  
93 independent consultant procured through public bid. For purposes  
94 of this paragraph, the term "professionally qualified  
95 independent consultant" means a consultant who is professionally  
96 qualified based on education and experience to evaluate the  
97 performance of investment providers and recordkeepers, not  
98 associated in any manner with an investment provider or  
99 recordkeeper responding to the public bid, and not offering any  
100 products or services other than overseeing the bid process.

101 (b) If the administrator of a deferred compensation program  
102 or any other person involved with the selection of an investment  
103 provider or recordkeeper has had any direct interest in any  
104 contract, privilege, or other benefit granted by the investment  
105 provider or recordkeeper in the preceding 2 years, he or she  
106 must abstain from participating in any decision regarding the  
107 selection of the investment provider or recordkeeper.

108 Establishing a personal account with an investment provider or  
109 recordkeeper or taking a distribution from a personal account  
110 does not constitute a direct interest for purposes of this  
111 paragraph.

112 (c) The administrator of a deferred compensation program  
113 established pursuant to this subsection shall comply with the  
114 fiduciary standards set forth in the Employee Retirement Income  
115 Security Act of 1974, as amended, at 29 U.S.C. s. 1104(a)(1)(A) -

116 (C).

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117       (d) A county, municipality, or political subdivision or  
118 constitutional county officer that establishes a deferred  
119 compensation plan may evaluate the performance of the plan  
120 administrator through an oversight committee. An oversight  
121 committee shall provide assistance and recommendations with  
122 respect to the administration of the plan, including, but not  
123 limited to, investment options offered under the plan. A county,  
124 municipality, or political subdivision or constitutional county  
125 officer shall determine the authority, activities, and  
126 composition of the oversight committee.

127       (14) This section ~~subsection~~ may not impair an existing  
128 contract. In each county that has one or more constitutional  
129 county officers, the board of county commissioners and the  
130 constitutional county officers shall negotiate a joint deferred  
131 compensation program for all their respective employees under s.  
132 163.01. If all parties to the negotiation cannot agree upon a  
133 joint deferred compensation program, the provisions of  
134 subsection (5) apply.

135       Section 2. This act shall take effect July 1, 2015.