The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Ring, Chair
Senator Siplin, Vice Chair

MEETING DATE: Monday, December 5, 2011
TIME: 9:30 —11:30 a.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Ring, Chair; Senator Siplin, Vice Chair; Senators Benacquisto, Bogdanoff, Dean, Flores, Garcia, Latvala, Margolis, Montford, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 374** Detert (Identical H 539)	Public Records/Donor Information/Florida Historic Capitol/Legislative Research Center and Museum; Exempting from public record requirements all identifying information of a donor or prospective donor to the direct-support organization of the Florida Historic Capitol and the Legislative Research Center and Museum; providing for future repeal and legislative review of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. GO 12/05/2011 Favorable	Favorable Yeas 9 Nays 0
2	**SB 198** Thrasher (Identical H 495)	State University System Optional Retirement Program; Increasing to no more than six the number of companies from which contracts may be purchased under the program, etc. HE 11/17/2011 Favorable GO 12/05/2011 Fav/CS BC	Fav/CS Yeas 9 Nays 1
3	**SB 638** Hays (Identical H 4073)	Florida Motor Vehicle Theft Prevention Authority; Repealing provisions relating to the Florida Motor Vehicle Theft Prevention Authority; repealing provisions relating to a short title, purpose, definitions, establishment, compensation of members, personnel, powers and duties, and expenditures, etc. GO 12/05/2011 Favorable CJ BC	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 366** Gaetz (Identical H 453)	Group Insurance for Public Employees; Requiring that school districts procure certain types of insurance for their officers and employees through interlocal agreements; providing an exception; requiring each school district to enter into an interlocal agreement and establish the School District Insurance Consortium governed by a board of directors; providing for membership and specifying terms of office for board members; requiring the Department of Management Services to provide technical services to the consortium; requiring the consortium to advertise for competitive bids for insurance; requiring that school districts engage in collective bargaining with certified bargaining agents, etc. ED 11/02/2011 Favorable GO 12/05/2011 Favorable BC	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Governmental Oversight and Accountability **Judge:**

Started: 12/5/2011 9:31:43 AM
Ends: 12/5/2011 9:55:12 AM Length: 00:23:30

9:31:47 AM	Meeting called to order
9:32:05 AM	Quorum present
9:32:22 AM	SB 374 Tab 1
9:32:27 AM	Senator Detert presents bill
9:32:40 AM	Public records exemption for donors wishing to remain anonymous
9:33:12 AM	Chair asks: exemption just for Historic Capital or all historic buildings
9:33:38 AM	No other questions
9:33:45 AM	Brian Pitts Recognized Justice-for-Jesus
9:34:20 AM	Wants every person contributing to be known to the public
9:36:56 AM	No clear reason to pass bill, according to Pitts
9:37:41 AM	Ron Richmond recognized - chairman of Historic Capital Committee
9:38:05 AM	Bill drawn to apply to those who request anonymity
9:38:24 AM	Senator Detert closes
9:38:41 AM	Some donors like to be anonymous
9:38:51 AM	Call roll for SB374
9:39:09 AM	SB 374 reported favorably
9:39:14 AM	SB 366 Tab 4
9:39:42 AM	Senator Gaetz presents bill
9:40:13 AM	Group insurance for public employees
9:40:32 AM	School board approves
9:40:47 AM	Opt out provision
9:41:08 AM	Mr. Meyer helped develop bill
9:41:21 AM	Questions: Senator Dean
9:41:40 AM	Senator Gaetz responds
9:41:50 AM	All counties participate unless they opt out
9:41:56 AM	Comment by Senator Montford
9:43:08 AM	Brian Pitts recognized Justice-for-Jesus
9:44:04 AM	Suggests the bill be tightened
9:46:05 AM	Senator Latvala recognized
9:46:29 AM	Wayne Blanton waves in support of the bill
9:46:42 AM	Roll call for SB 366
9:47:00 AM	SB 366 reported favorably
9:47:17 AM	SB 638 Tab 3
9:47:29 AM	Senator Hays recognized to present the bill
9:47:49 AM	Theft decrease in cars; section made obsolete
9:47:53 AM	No questions
9:48:05 AM	Brain Pitts recognized Justice-for-Jesus
9:50:36 AM	Andrew Fay recognized for Attorney General's office
9:51:01 AM	Attorney General waves in support of the bill
9:51:20 AM	Senator Hays closes
9:51:28 AM	Roll call for SB 638
9:51:39 AM	SB 638 reported favorably
9:51:59 AM	Senator Benaquisto favorable on SB 374
9:52:20 AM	Senator Latvala favorable on SB 374
9:52:33 AM	SB 198 Tab 2
9:52:54 AM	Senator Thrasher presents bill
9:53:02 AM	Senator Garcia recognized for question
9:53:34 AM	Late filed ammendment 647402 filed by Senator Bogdanoff
9:53:54 AM	Senator Thrasher approves of amendment
9:54:07 AM	Admendment adopted, Favorable as CS
9:54:17 AM	Roll call CS/SB 198
9:54:31 AM	CS/SB 198 reported favorably

9:54:57 AM Senator Siplin moves we rise

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Finance and Tax, *Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

SENATOR ELLYN SETNOR BOGDANOFF
25th District

December 5, 2011

Senator Jeremy Ring, Chair
Governmental Oversight and Accountability Committee
535 Knott Building
Tallahassee, FL 32399

Re: The December 5, 2011 Meeting of your Committee

Chairman Ring:

I am writing to request an excused absence from this morning's meeting of your Governmental Oversight and Accountability Committee.

Feel free to contact me with any questions or concerns.

Sincerely,

Ellyn

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

RECEIVED
DEC 0 5 2011
GOVERNMENTAL OPERATIONS

REPLY TO:
❒ 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
❒ 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
❒ 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 374

INTRODUCER: Senator Detert

SUBJECT: Public Records/Historic Capitol Direct-Support Organization

DATE: November 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Seay	Roberts	GO	**Favorable**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill creates a public records exemption for information that identifies a donor or a prospective donor to the direct-support organization of the Florida Historic Capitol and the Legislative Research Center and Museum if the donor desires to remain anonymous. The exemption is subject to legislative review and repeal under the provisions of the Open Government Sunset Review Act. The bill contains a statement of public necessity as required by the State Constitution.

Because this bill creates a new public records exemption, it requires a two-thirds vote of each house of the Legislature for passage.

This bill substantially amends s. 272.136, F.S., and creates one undesignated section of law.

II. Present Situation:

Public Records Law

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

[1] Section 1390, 1391 F.S. (Rev. 1892).
[2] Article I, s. 24 of the State Constitution.

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency.[4] Section 119.07(1)(a), F.S., states:

> (a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

> . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Only the Legislature is authorized to create exemptions to open government requirements.[8] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to

---

[3] Chapter 119, F.S.

[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the state constitution.

[5] Section 119.011(11), F.S.

[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

[8] Article I, s. 24(c), Fla. Constitution.

accomplish the stated purpose of the law.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements then an agency is not prohibited from disclosing the record in all circumstances.[13]

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act) [14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.[15]

The Act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, whose administration would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The Act also requires consideration of the following:

---

[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c), Fla. Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.
[15] Section 119.15(5)(a), F.S.
[16] Section 119.15(4)(b), F.S.

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Examples of Existing Exemptions for Donors or Prospective Donors

Entity	***Exemption***	***Florida Statute***	***Status***
Enterprise Florida, Inc.	Identity of donor or prospective donor who desires to remain anonymous and all identifying information	s. 11.45(3)(i)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Florida Development Finance Corporation, Inc.	Identity of donor or prospective donor who desires to remain anonymous and all identifying information	s. 11.45(3)(j)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Cultural Endowment Program (Department of State)	Information which, if released, would identify donors and amounts contributed. Information which, if released, would identify prospective donors.	s. 265.605(2)	Confidential and exempt from s. 119.07(1), F.S.
Direct Support Organization (University of West Florida)	Identity of donor or prospective donor of property to a DSO who desires to remain anonymous, and all identifying information.	s. 267.1732(8)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Citizen Support Organization (Fish and Wildlife Commission)	Identity of donor or prospective donor to a CSO who desires to remain anonymous and all identifying information.	s. 379.223(3)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Florida Agricultural Museum (Department of Agriculture and Consumer Services)	Identity of donor or prospective donor who desires to remain anonymous and all identifying information.	s. 570.903(6)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.

Entity	*Exemption*	*Florida Statute*	*Status*
John and Mable Ringling Museum of Art Direct Support Organization (Florida State University)	Information that, if released, would identify donors who wish to remain anonymous or prospective donors who wish to remain anonymous when the DSO has identified the prospective donor and has not obtained the name in another manner.	s. 1004.45(2)(h)	Confidential and exempt from s. 119.07(1), F.S.
Florida Prepaid College Board Direct Support Organization	Identity of donors who wish to remain anonymous. Any sensitive, personal information regarding contract beneficiaries, including identity.	s. 1009.983(4)	Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I, State Constitution.

Direct-Support Organizations

In General

Florida law provides for the establishment of direct-support organizations (DSO or DSOs) as a means to assist state agencies in accomplishing their missions. DSOs are established as Florida corporations not for profit which are incorporated under ch. 617, F.S., and approved by the Department of State. Section 617.01401(5), F.S., defines the term "corporation not for profit" as "a corporation no part of the income or profit of which is distributable to its members, directors, or officers."

DSOs perform a variety of services for state agencies, including:

- Raising money;
- Submitting requests for, and receiving grants from, the federal government, the state, or its political subdivisions;
- Receiving, holding, investing, and administering property;
- Assisting an agency in performing its mission; and
- Making expenditures for the benefit of the supported agency.[17]

DSOs have been established in Florida to support a wide array of services and agencies including: child abuse prevention and adoption; tourism; amateur athletics and professional sports; public guardianship; victims of crime; universities, community colleges, and school districts; the Florida National Guard; the Departments of Corrections, Juvenile Justice, Agriculture and Consumer Services, and Veterans' Affairs; and the Florida Prepaid College Board.[18]

[17] Sections 39.0011, 250.115, 267.1732, 267.1736, 288.1226, 288.1229, 292.055, 570.903, 744.7082, 944.802, 960.002, 985.672, 1001.453, 1004.28, 1004.70, and 1009.983, F.S.
[18] *Id.*

Florida law generally requires DSOs to:

- Operate under written contract with the supported agency;
- Be governed by a board of directors; and
- Operate for the benefit of, and in a manner consistent with, the goals of the agency and in the best interest of the state.

Direct-Support Organization for the Florida Historic Capitol and the Legislative Research Center and Museum

In 2009, the Legislature enacted s. 272.136, F.S., authorizing the Legislative Research Center and Museum at the Historic Capitol and the Capitol Curator[19] to establish a DSO in order to provide assistance and promotional support through fundraising for the Florida Historic Capitol and the Legislative Research Center and Museum, including but not limited to, their education programs and initiatives.[20] The DSO established under s. 272.136, F.S., must be:

- A Florida corporation;
- Not for profit;
- Incorporated under ch. 617, F.S.; and
- Approved by the Department of State.[21]

The DSO[22] is governed by a board of directors with a demonstrated capacity for supporting the mission of the Historic Capitol. Initial appointments to the board shall be made by the President of the Senate and the Speaker of the House of Representatives, and thereafter by the board.[23] The DSO received its not-for-profit designation in October 2010, and has been receiving contributions.

If the DSO is no longer authorized or fails to comply with the requirements of s. 272.136, F.S., fails to maintain its tax-exempt status, or ceases to exist, then all funds obtained through grants, gifts, and donations in the DSO's account revert to the state and are deposited into an account designated by the Legislature.[24]

III. Effect of Proposed Changes:

Section 1 amends s. 272.136, F.S., to provide a public records exemption to make the identity of a donor or prospective donor to the direct-support organization of the Florida Historic Capitol and the Legislative Research Center and Museum confidential and exempt from s. 119.07(1),

---

[19] The Florida Historic Capitol Curator (curator) is appointed by and serves at the pleasure of the President of the Senate and the Speaker of the House of Representatives. The curator is responsible for: (a) promoting and encouraging state knowledge and appreciation of the Florida Historic Capitol; (b) collecting, researching, exhibiting, interpreting, preserving, and protecting the history, artifacts, objects, furnishings, and other materials related to the Florida Historic Capitol, other than archaeological materials; and (c) developing, directing, supervising, and maintaining the interior design and furnishings within the Florida Historic Capitol. In conjunction with the Legislative Research Center and Museum at the Historic Capitol, the curator may also assist the Florida Historic Capitol in the performance of certain monetary duties outlined in s. 272.135(3), F.S. *See* s. 272.135, F.S.

[20] Ch. 2009-179, s.3, L.O.F.

[21] Section 272.136(2), F.S.

[22] The DSO's official name is the Florida Historic Capital Foundation, Inc., and its website is http://www.flhistoriccapitol.gov/foundation.cfm.

[23] Section 272.136(1), F.S.

[24] Section 272.136(6), F.S.

F.S., and s. 24(a), art. I, State Constitution, if the donor desires to remain anonymous. The section provides that the donor or prospective donor's anonymity be maintained in the direct-support organization's annual financial audit submitted to the Auditor General. The exemption is subject to legislative review and repeal under the provisions of the Open Government Sunset Review Act.

Section 2 provides a statement that this public records exemption is a public necessity:

- To encourage private investment;
- To promote the giving of gifts; and
- To promote the raising of private funds for the acquisition, renovation, rehabilitation, and the programming and preservation of the Florida Historic Capitol and the Legislative Research Center and Museum.

Section 3 provides an effective date of July 1, 2012.

Other potential implications:

If the DSO for the Legislative Research Center and Museum at the Historic Capitol is considered a part of the legislative branch, it is not subject to the provisions of chapter 119, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement
Section 24(c), art. I of the State Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly-created or expanded public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Public Necessity Statement
Section 24(c), art. I of the State Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. Because this bill creates a new public records exemption, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Donors or prospective donors of donations made for the benefit of the Florida Historic Capitol and the Legislative Research Center and Museum would have the option of requesting anonymity, which may encourage private entities to donate.

C. Government Sector Impact:

The exemption may encourage donations and therefore result in a financial gain to the state's DSO for the Historic Capitol and the Legislative Research Center and Museum.

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.)

None.

B. Amendments:

None.

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

By Senator Detert

23-00442-12 2012374__

A bill to be entitled

An act relating to public records; amending s. 272.136, F.S.; exempting from public record requirements all identifying information of a donor or prospective donor to the direct-support organization of the Florida Historic Capitol and the Legislative Research Center and Museum; providing for future repeal and legislative review of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (7) is added to section 272.136, Florida Statutes, to read:

272.136 Direct-support organization.—The Legislative Research Center and Museum at the Historic Capitol and the Capitol Curator may establish a direct-support organization to provide assistance and promotional support through fundraising for the Florida Historic Capitol and the Legislative Research Center and Museum, including, but not limited to, their educational programs and initiatives.

(7)(a) The identity of a donor or prospective donor to the direct-support organization who desires to remain anonymous and all information identifying such donor or prospective donor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in any auditor's report created pursuant to the annual financial

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00442-12 2012374__

audit required under subsection (5).

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that information identifying a donor or prospective donor to the direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum be made confidential and exempt from public records requirements if such donor or prospective donor desires to remain anonymous. In order to encourage private support for the direct-support organization, it is a public necessity to promote the giving of gifts to, and the raising of private funds for, the acquisition, renovation, rehabilitation, and the programming and preservation of the Florida Historic Capitol and the Legislative Research Center and Museum. An essential element of an effective plan for promoting the giving of private gifts and the raising of private funds is the need to protect the identity of prospective and actual donors who desire to remain anonymous. If the identity of prospective and actual donors who desire to remain anonymous is subject to disclosure, there is a chilling effect on donations because donors are concerned about disclosure of personal information leading to theft and, in particular, identity theft, including personal safety and security. Therefore, the Legislature finds that it is a public necessity to make confidential and exempt from public records requirements information that would identify a donor or prospective donor to the direct-support organization for the Florida Historic Capitol

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 and the Legislative Research Center and Museum if such donor or
60 prospective donor wishes to remain anonymous.
61 Section 3. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/5/2011
Meeting Date

Topic: Public records

Bill Number: 374 *(if applicable)*

Name: BRIAN PITTS

Amendment Barcode: *(if applicable)*

Job Title: TRUSTEE

Address: 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG, FLORIDA, 33705
City, State, Zip

Phone: 727-897-9291

E-mail: JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☑ Against ☑ Information

Representing: JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-5-11
Meeting Date

Topic: Historic Capitol

Bill Number: SB 374 *(if applicable)*

Name: Ron Richmond

Amendment Barcode: *(if applicable)*

Job Title: Chair, Legislative Research Center

Address: 1394 Millstream Rd.
Street

Tallahassee, FL, 32312
City, State, Zip

Phone: 545-5964

E-mail: ronaldrichmond@comcast.net

Speaking: ☑ For ☐ Against ☑ Information

Representing: Historic Capitol Foundation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 198

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Thrasher

SUBJECT: State University System Optional Retirement Program

DATE: December 5, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	HE	**Favorable**
2.	McKay	Roberts	GO	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill increases the number of companies that the Department of Management Services (DMS) is authorized to contract with for provision of State University System optional retirement plans (SUSORP) from five to six companies. The bill also provides that if an additional company is to be added by competitive procurement, that the contract with the new provider be effective from July 1, 2012 until December 14, 2014, and that all SUSORP providers to be designated after January 1, 2015, must participate together in a competitive procurement.

The DMS continues to be limited in its contract selection to the potential pool of companies proffered by the Board of Governors of the State University System.

This bill substantially amends section 121.35 of the Florida Statutes.

II. Present Situation:

Chapter 121, F.S., addresses the Florida Retirement System (FRS). The FRS provides retirement benefits to public employees and officers, generally offering membership to agencies, branches,

the judiciary, district school boards, and institutions, including institutions of higher education.[1] The Department of Management Services (DMS) is designated the administrator of the FRS.[2]

Chapter 83-197, Laws of Florida, established an optional retirement program for the State University System in s. 121.35, F.S. Through this program, participants elect coverage as an alternative to membership in the traditional FRS and direct their own investments, subject to those offered by way of provider and plan.[3] Participation is available to certain instructional and research faculty, administrative and professional personnel, and the Chancellor and university presidents.[4] Participation is mandatory for faculty members at a college with faculty practice plans.[5] Contracts are awarded through recommendation of the Board of Governors to the DMS, which, in turn, is authorized to designate up to five companies for contract purchase.[6] The investment products, retirement, and death benefits offered by provider companies are subject to State Board of Administration review.[7]

The DMS indicates that about 17,000 eligible members elected participation in optional retirement as of June 30, 2011. Effective July 1, 2011, employer contribution amounts to 7.42 percent for deposit in the participant's account and 0.01 percent for administrative costs. Employee contribution is mandated at 3 percent of salary, and can be supplemented by up to an additional 7.42 percent, at the prerogative of the employee.

The optional retirement program currently offers five investment provider choices. These are:

- ING (3,042 participants);
- Jefferson National Life Insurance Company (134 participants);
- MetLife Investors USA Insurance Company (1,853 participants);
- Teachers Insurance and Annuity Association – College Retirement Equities Fund (TIAA-CREF) (8,870 participants); and
- VALIC Retirement (4,615 participants).[8]

This constitutes a total number of plans at 18,514.[9] All contracts currently in place expire between March and December of 2014.[10]

---

[1] ss. 121.011 and 121.021(10), F.S.
[2] s. 121.021(5), F.S.
[3] s. 121.35 (1), F.S.
[4] s. 121.35 (2)(a), F.S.
[5] s. 121.051(1)(a)2., F.S.
[6] s. 121.35 (6)(b), F.S.
[7] s. 121.35 (6)(c), F.S.
[8] Bill Analysis, Department of Management Services (September 20, 2011.) The number of participants cited is as of June 30, 2011.
[9] As participants are authorized to select more than one provider category, this number is higher than that reflecting total number of participants (16,999.)
[10] The VALIC contract expires March 2014, followed by MetLife in April 2014, with the remaining contracts all set to expire December 2014. (Information received by phone from Todd Gunderson, Senior Benefits Analyst, DMS, on November 14, 2011.)

III. Effect of Proposed Changes:

The bill provides that DMS must designate no more than six companies for inclusion in the optional retirement program for the State University System, up from the current five companies. Provided that the DMS selects six, consumers electing optional retirement would have increased choice.

The bill also provides that if an additional company is to be added by competitive procurement, that the contract with the new provider be effective from July 1, 2012, until December 14, 2014, and that all SUSORP providers to be designated after January 1, 2015, must participate together in a competitive procurement.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

To the extent that an additional provider increases market-driven competition based on financial return, this provision may financially benefit the end consumer through higher returns or lower costs and fees.

C. Government Sector Impact:

The DMS does not anticipate an actuarial impact should this bill pass, as the number of participants and the funds available for investment remain the same. Therefore, a Milliman study is not required.

The Board of Governors of the State University System does not anticipate a fiscal impact on universities.

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.)

CS by Governmental Oversight and Accountability on December 5, 2011:
The CS provides that if an additional company is to be added by competitive procurement, that the contract with the new provider be effective from July 1, 2012, until December 14, 2014, and that all SUSORP providers to be designated after January 1, 2015, must participate together in a competitive procurement.

B. Amendments:

None.

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

647402

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/05/2011	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability (Bogdanoff) recommended the following:

1 **Senate Amendment (with directory and title amendments)**
2
3 Delete line 28
4 and insert:
5 (7) PROCUREMENT OF ADDITIONAL PROVIDERS.—If the department
6 chooses to designate an additional provider company from which
7 contracts may be purchased under the program as provided in
8 paragraph (6)(b), the department shall conduct a competitive
9 procurement and the designation of the additional provider is
10 effective from July 1, 2012, until December 31, 2014. All
11 companies seeking a designation that is effective on or after
12 January 1, 2015, shall participate together in a separate

647402

13 competitive procurement conducted by the department for the
14 purpose of selecting the total number of provider companies
15 authorized in paragraph (6)(b) and deemed reasonable and prudent
16 by the department.
17 Section 2. This act shall take effect upon becoming a law.
18
19 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
20 And the directory clause is amended as follows:
21 Delete line 11
22 and insert:
23 121.35, Florida Statutes, is amended, and subsection (7) is
24 added to that section, to read:
25
26 ================ T I T L E A M E N D M E N T ================
27 And the title is amended as follows:
28 Delete line 6
29 and insert:
30 program; providing for a procurement process for
31 additional providers; providing an effective date.

By Senator Thrasher

8-00277-12 2012198__

A bill to be entitled

An act relating to the State University System optional retirement program; amending s. 121.35, F.S.; increasing to no more than six the number of companies from which contracts may be purchased under the program; providing an effective date.

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

Section 1. Paragraph (b) of subsection (6) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(6) ADMINISTRATION OF PROGRAM.—

(b) After receiving and considering the recommendations of the Board of Governors of the State University System, the department shall designate no more than six ~~five~~ companies from which contracts may be purchased under the program and shall approve the form and content of the optional retirement program contracts. Any domestic company that has been designated as of July 1, 2005, shall be included in the six ~~five~~ companies until expiration of its existing contract with the department. The domestic company may assign its contract with the department to an affiliated qualified company that is wholly owned by the domestic company's parent company and has assumed 100 percent of the responsibility for the contracts purchased from the domestic company.

Section 2. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 638

INTRODUCER: Senator Hays

SUBJECT: Florida Motor Vehicle Theft Prevention Authority

DATE: November 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jenkins	Roberts	GO	**Favorable**
2.			CJ	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill repeals the following sections of the Florida Statutes:

- Section 860.151, F.S., (Short title);
- Section 860.152, F.S., (Purpose);
- Section 860.153, F.S., (Definitions);
- Section 860.154, F.S., (Florida Motor Vehicle Theft Prevention Authority);
- Section 860.155, F.S., (Compensation of members);
- Section 860.156, F.S., (Personnel);
- Section 860.157, F.S., (Powers and duties of the authority); and
- Section 860.158, F.S., (Florida Motor Vehicle Theft Prevention Authority Expenditures).

The bill also amends s. 713.78, F.S., (Liens for recovering, towing, or storing vehicles and vessels) to remove a reference to the Florida Motor Vehicle Theft Prevention Authority.

II. Present Situation:

In 1992, the Legislature created the Florida Motor Vehicle Theft Prevention Act (Act).[1] The purpose of the Act was to prevent, combat, and reduce motor vehicle theft in Florida, and to improve and support the law enforcement, prosecution, and administration of motor vehicle theft laws.[2] The Act also established the Florida Motor Vehicle Theft Prevention Authority (Authority), within the Department of Legal Affairs.[3]

[1] Chapter 1992-145, L.O.F.
[2] Section 860.152, F.S.
[3] Section 860.154, F.S.

Powers and Duties of the Authority
The powers and duties of the Authority include:

- Applying for, soliciting, receiving, establishing priorities for, allocating, disbursing, contracting for, and spending funds that are made available to the Authority from any source to effectuate the purposes of the Act;
- Assessing the scope of the problem of motor vehicle theft;
- Developing and sponsoring the implementation of statewide plans and strategies to combat motor vehicle theft and to improve the administration of the motor vehicle theft laws and provide an effective forum for identification of critical problems associated with motor vehicle theft;
- Coordinating the development, adoption, and implementation of plans and strategies relating to interagency or intergovernmental cooperation with respect to motor vehicle theft law enforcement; and
- Providing an annual report on the activities of the Authority to specified entities.[4]

Membership of the Authority
The powers and duties of the Authority are vested in and exercised by a Board of Directors (Board), established within the Authority, which includes the following members:

- The Chief Financial Officer or his or her designee;
- The executive director of the Department of Highway Safety and Motor Vehicles;
- The executive director of the Department of Law Enforcement; and
- Six additional members, each of whom are appointed by the Attorney General as follows: a state attorney or city or county executive, a chief executive law enforcement official, a sheriff, one representative of companies authorized to sell motor vehicle insurance, one representative of insurers authorized to write motor vehicle insurance in this state, and one representative of purchasers of motor vehicle insurance in this state who is not employed by or connected with the business of insurance.[5]

Florida Motor Vehicle Theft Prevention Trust Fund
In addition to the Authority, the Act created the Florida Motor Vehicle Theft Prevention Trust Fund (Trust Fund).[6] The Trust Fund was funded pursuant to s. 320.08046, F.S., which appropriated 18 percent of a $1 license tax[7] surcharge (vehicle registration fee) to the Trust Fund.[8] Trust Fund dollars were required to be used to:

- Pay the Authority's cost to administer the Board and the Trust Fund; and
- Achieve the purposes and objectives of the Act.[9]

---

[4] Section 860.157, F.S.
[5] Section 860.154, F.S.
[6] Chapter 1992-145, L.O.F.
[7] Section 320.08, F.S., imposes license taxes.
[8] In 1992, s. 320.08045, F.S., imposed a 50 cent surcharge on each license tax, which was deposited into the Trust Fund. This statute was repealed in 1995. That same year, s. 320.08046, F.S., was amended to revise the surcharge on license taxes and to provide guidelines for surcharge distribution to the Trust Fund. *See* ch. 1992-145, L.O.F., and ch. 1995-267, L.O.F.
[9] Chapter 1992-145, L.O.F.

In 2003, the Legislature terminated the Trust Fund and amended s. 320.08046, F.S., to remove the language appropriating 18 percent of the $1 license tax surcharge to the Trust Fund.[10] As a result, the Authority has not been funded since 2003.[11] According to the Office of the Attorney General (OAG), the OAG has not administered the Authority since funding was eliminated. However, statutes relating to the Authority still exist, despite the program not being operational.

Auto theft is much less prevalent today than it was in 1992 when the Florida Motor Vehicle Theft Prevention Authority was established.[12] In fact, the Florida Department of Law Enforcement reports that the occurrence of auto theft in Florida has decreased by nearly fifty percent since 2003 when the Authority stopped operating.[13]

III. Effect of Proposed Changes:

The bill repeals statutes relating to the Authority. Specifically, the bill repeals the following provisions:

- Section 860.151, F.S., (Short title);
- Section 860.152, F.S., (Purpose);
- Section 860.153, F.S., (Definitions);
- Section 860.154, F.S., (Florida Motor Vehicle Theft Prevention Authority);
- Section 860.155, F.S., (Compensation of members);
- Section 860.156, F.S., (Personnel);
- Section 860.157, F.S., (Powers and duties of the authority); and
- Section 860.158, F.S., (Florida Motor Vehicle Theft Prevention Authority Expenditures).

The bill also makes a conforming change to s. 713.78, F.S., (Liens for recovering, towing, or storing vehicles and vessels), to delete a reference to s. 860.158, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

---

[10] Chapter 2003-179, L.O.F.
[11] Verified by Senate Budget Subcommittee on Criminal and Civil Justice Appropriations.
[12] There were 105,553 auto theft incidents reported in 1992, compared to 41,433 in 2010. *See* Florida Statistical Analysis Center: FDLE (1989-2010), Crime in Florida, Florida Uniform Crime Report.
[13] There were 81,536 auto theft incidents reported in 2003. Id.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

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.)

None.

B. Amendments:

None.

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

By Senator Hays

20-00644-12 2012638__

A bill to be entitled

An act relating to the Florida Motor Vehicle Theft Prevention Authority; repealing ss. 860.151, 860.152, 860.153, 860.154, 860.155, 860.156, 860.157, and 860.158, F.S., relating to the Florida Motor Vehicle Theft Prevention Authority; repealing provisions relating to a short title, purpose, definitions, establishment, compensation of members, personnel, powers and duties, and expenditures; amending s. 713.78, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Sections 860.151, 860.152, 860.153, 860.154, 860.155, 860.156, 860.157, and 860.158, Florida Statutes, are repealed.

Section 2. Paragraph (e) of subsection (13) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(13)

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the General Revenue Fund ~~established under s. 860.158~~. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

20-00644-12 2012638__

Section 3. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/5/11
Meeting Date

Topic: ~~MV~~ Motor Vehicle Theft Repealer

Bill Number: 638 (if applicable)

Name: Andrew Fay

Amendment Barcode: (if applicable)

Job Title: Leg Coordinator

Address: PL-Cap
Street

Tallahassee, FL 32399
City State Zip

Phone:

E-mail: andrew.fay@myflorida legal.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: AG

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/5/2011
Meeting Date

Topic: Theft Authority

Bill Number: 638 (if applicable)

Name: BRIAN PITTS

Amendment Barcode: (if applicable)

Job Title: TRUSTEE

Address: 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

Phone: 727-897-9291

E-mail: JUSTICE2JESUS@YAHOO.COM

Speaking: [ ] For [✓] Against [✓] Information

Representing: JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 366

INTRODUCER: Senator Gaetz

SUBJECT: Group Insurance for Public Employees

DATE: November 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	**Favorable**
2.	McKay	Roberts	GO	**Favorable**
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill requires each school district to enter into an interlocal agreement to establish a consortium through which every school district must purchase health, accident, and hospitalization insurance for school district officers and employees, unless a school board determines that purchasing such insurance outside the consortium plan is financially advantageous to the school district. The bill also specifies that collective bargaining is required consistent with Chapter 447, F.S.

This bill substantially amends section 112.08 of the Florida Statutes.

II. Present Situation:

Health Insurance for School District Employees

Chapter 112, F.S., addresses various conditions of employment, including retirement and group insurance for local governmental units, defined to include school boards.[1] Section 112.08, F.S., authorizes local governmental units to contract with private companies for the provision of all types of insurance, including life, health, accident, hospitalization, legal expense, and annuity insurance.[2] The local governmental unit is required to participate in the competitive bid process in procuring group insurance.[3] If the local governmental unit intends to self-insure, approval by

[1] Section 112.08(1), F.S.
[2] Section 112.08(2)(a), F.S.
[3] *Id.*

the Office of Insurance Regulation is required, with approval to be based upon the actuarial soundness of the plan.[4]

Currently the 67 school districts purchase as individual school districts health, accident, and hospitalization insurance for officers, employees, and dependents, as in the table below:

FLORIDA DEPARTMENT OF EDUCATION
Office of Funding and Financial Reporting
District Health Insurance Survey
October 27, 2009

District	Number of Employees Covered	Estimated total health insurance costs paid by the district for all employees	Estimated total health insurance costs paid by all employees	Dollar amount of health insurance costs paid by the district per employee1	Dollar amount of health insurance costs paid by the employee1	Number of family members covered (excluding employee)
Alachua	3280.00	$13,428,845.00	$0.00	$4,094.16	$0.00	677.00
Baker	447.00	$2,407,767.12	$1,054,423.92	$5,386.50	$2,358.89	N/A
Bay	2290.00	$13,874,861.52	$3,215,140.32	$6,058.89	$1,403.99	N/A
Bradford	398.00	$1,424,840.00	$1,044,366.00	$3,580.00	$2,624.00	1041.00
Brevard	2379.00	$41,678,397.00	$10,168,911.00	$6,013.33	$1,467.16	5177.00
Broward	27154.00	$164,517,279.92	$19,455,232.24	$6,058.68	$19,455,232.24	4055.00
Calhoun	351.00	$1,042,095.60	$636,672.00	$2,968.93	$1,814.00	83.00
Charlotte	1783.00	$10,699,214.00	$2,773,901.00	$6,000.68	$1,471.57	1145.00
Citrus	1800.00	$4,968,000.00	$6,708,000.00	$2,760.00	$3,726.67	1400.00
Clay	3468.00	$417,425,301.00	$5,521,899.00	$2,784 - $7,943	$120 - $4,506	1107.00
Collier	5100.00	$31,314,000.00	$0.00	$6,140.00	$0.00	0.00
Columbia	1293.00	$8,000,000.00	$2,500,000.00	$5,215.50	Varies	740.00
Miami-Dade	37959.00	$277,951,898.00	$26,990,320.00	$7,500.00	$2,386.00	N/A
DeSoto	644.00	$4,443,011.63	$1,082,253.15	$6,742.05	$1,642.27	411.00
Dixie	210.00	$2,016,016.00	$318,166.00	$6,150.00	$1,513.00	259.00
Duval	12506.00	$77,133,585.00	$15,720,857.00	Varies	Varies	6345.00
Escambia	4774.00	$22,618,326.00	$6,105,828.00	$4,737.81	$1,278.98	3003.00
Flagler	1263.00	$7,727,748.00	$2,166,759.00	$4,403.00	$6,118.57	569.00
Franklin	161.00	$1,353,911.61	$775,736.64	$8,409.36	$4,818.24	206.00
Gadsden	953.22	$3,643,200.00	$1,298,400.00	$3,822.00	$1,362.00	N/A
Gilchrist	65.00	$1,268,365.50	$243,946.26	$4,497.75	$3,753.02	105.00
Glades	109.00	$834,449.00	$242,467.00	$5,027.00	$468.00	43.00
Gulf	234.00	$1,263,600.00	$527,622.00	$5,400.00	$2,254.79	60.00
Hamilton	146.00	$552,826.08	$307,591.44	$3,786.48	$2,106.72	25.00
Hardee	529.00	$3,048,480.00	$967,656.00	$5,762.72	$1,829.22	345.00
Hendry	932.00	$8,388,000.00	$3,273,784.00	$9,000.00	$3,512.00	472.00
Hernando	2561.00	$1,822,800.00	$3,525,353.00	$5,014.00	$8,192.00	-
Highlands	1600.00	$12,358,900.00	$0.00	$7,724.00	$0.00	2400.00
Hillsborough	24607.00	$120,412,040.00	$24,421,557.00	$4,893.41	Varies	N/A
Holmes	321.00	$1,816,567.00	$740,895.00	$312.02	$105.50	104.00
Indian River	2046.00	$9,476,832.00	$3,096,222.00	$4,632.00	$1,463.00	1851.00
Jackson	655.00	$2,635,108.00	$1,691,621.00	$4,023.07	$2,583.63	N/A
Jefferson	120.00	$360,000.00	$204,480.00	$3,000.00	$1,704.00	36.00
Lafayette	99.00	$565,882.00	$200,363.00	$5,715.98	$4,174.23	24.00
Lake	4492.00	$25,524,337.56	$3,796,447.20	$5,682.36	$3,007.36	N/A
Lee	9350.00	$60,000,000.00	$15,000,000.00	$6,372.00	$1,600.00	3000.00
Leon	3233.00	$15,481,577.00	$6,575,243.40	$4,788.61	$2,033.79	2369.00
Levy	645.00	$2,531,908.00	$852,702.00	$3,925.44	$2,137.10	236.00
Liberty	150.00	$484,790.64	$461,757.12	$3,973.69	$3,816.17	-
Madison	371.00	$1,308,858.92	$828,141.08	$3,525.44	Varies	N/A
Manatee	5218.00	$26,845,370.40	$13,908,186.00	$5,144.76	$2,665.42	4696.00
Marion	5400.00	$19,172,180.40	$4,050,104.22	$3,506.33	$432.61 - $1,463.83	-
Martin	2895.00	$15,878,732.17	$4,973,174.47	$517.09	Varies	612.00
Monroe	907.00	$7,776,000.00	$2,693,709.00	$8,573.32	$2,969.92	568.00
Nassau	883.00	$5,149,867.92	$2,499,655.52	$5,832.24	$2,830.87	682.00
Okaloosa	3173.00	$17,199,048.00	$3,859,417.00	$5,420.44	$1,216.33	1443.00
Okeechobee	710.00	$4,361,555.40	$1,487,583.48	$6,143.04	$2,095.19	273.00
Orange	24196.02	$126,254,849.00	$0.00	$5,218.00	$0.00	11186.00
Osceola	6454.00	$39,421,032.00	$10,638,545.00	$6,108.00	$1,083.75	3732.00
Palm Beach	21500.00	$153,455,000.00	$30,700,000.00	$5,710.00	$1,428.00	15100.00
Pasco	7952.00	$49,200,000.00	$7,231,000.00	$5,799.29	0 for single coverage	3000.00
Pinellas	11863.00	$91,000,000.00	$21,800,000.00	$7,670.91	$1,837.65	11235.00
Polk	9897.00	$57,757,920.00	$12,519,528.00	$5,836.00	$1,144.28	5529.00
Putnam	1501.32	$7,096,948.80	$1,660,756.60	$4,727.13	$1,444.00	148.00
St. Johns	2553.00	$14,061,611.16	$5,762,866.68	Varies	Varies	3299.00
St. Lucie	3970.00	$29,900,851.57	$8,525,129.28	$7,531.70	$2,147.39	3861.00
Santa Rosa	1992.00	$10,821,460.20	$4,725,311.52	Varies	Varies	N/A
Sarasota	5108.00	$33,447,730.00	$6,029,822.00	$6,548.00	$1,180.47	1985.00
Seminole	6651.00	$35,467,022.00	$28,971,091.00	$5,686.00	-	513.00
Sumter	737.00	$3,057,076.00	$337,260.40	$4,148.00	$4,520.49	N/A
Suwannee	768.00	$2,826,915.84	$1,050,442.44	$3,680.88	$1,367.76	N/A
Taylor	525.00	$1,148,576.00	$974,700.00	-	$4,044.34	174.00
Union	233.00	$1,454,847.52	$722,027.36	$6,243.98	$3,098.83	233.00
Volusia	7512.00	$49,883,863.00	$12,901,064.00	$6,340.90	$1,639.90	5986.00
Wakulla	492.00	$2,829,894.30	$956,589.00	$5,751.82	$1,944.29	424.00
Walton	942.00	$4,668,552.00	$0.00	$4,956.00	$0.00	212 families
Washington	519.00	$2,299,501.00	$368,323.00	$4,430.64	$709.68	N/A
Total	**295029.56**	**$2,190,240,023.78**	**$363,840,999.74**	**-**	**-**	**111967.00**

[4] Section 112.08(2)(a) and (b), F.S.

Regional Consortium Service Organizations

Section 1001.451, F.S., provides that school districts with less than 20,000 full-time equivalent students and certain other schools may enter into cooperative agreements to form a regional consortium service organization (RCSO). Each RCSO must provide, at a minimum, three of the following services: exceptional student education; teacher education centers; environmental education; federal grant procurement and coordination; data processing; health insurance; risk management insurance; staff development; purchasing; or planning and accountability. Each RCSO that consists of at least four districts is eligible to receive an incentive grant through the Department of Education of $50,000 per school district to be used for the delivery of services within the participating school districts.[5] Application for incentive grants must be made to the Commissioner of Education by July 30 of each year for distribution to qualifying regional consortium service organizations by January 1 of the fiscal year. A RCSO may establish purchasing and bidding programs, including construction and construction management arrangements, in lieu of individual school district bid arrangements pursuant to policies exercised by its member districts.

There are three RCSO's currently in operation:

- The Panhandle Area Educational Consortium: 13 member school districts, with two districts participating in a self-insured group health plan.
- The North East Florida Educational Consortium: 13 member school districts, with at least 5 districts participating in dental and vision programs.
- The Heartland Educational Consortium: 6 school districts in central Florida; no risk management pooling.

Florida School Boards Insurance Trust

The Florida School Boards Insurance Trust (FSBIT) was established in 1981 by the Florida School Boards Association (FSBA) for the purpose of self-insuring property/casualty exposures of Florida school districts. This pooled self-insurance program is sponsored by FSBA and is funded by the participating districts. In 2009 FSBIT added the School Health Insurance Program of Florida (SHIP) to purchase and procure health insurance coverage or provide self-insurance and risk management programs coverage for participating districts. The only participant in SHIP to date, Charlotte County, has a self-insured health care plan.

Florida Law on Collective Bargaining

Chapter 447, F.S., addresses labor organizations. The district school board is considered the public employer for all employees of the district.[6] A public employee is generally defined as a person employed by a public employer.[7] Collective bargaining is required between the public employer and the bargaining agent of public employees in the following areas: wages, hours, and terms and conditions of employment.[8]

---

[5] In FY 2010-11, $1,611,465 was appropriated; in FY 2011-2012, $1,445,390 was appropriated.
[6] Section 447.203(2), F.S.
[7] Section 447.203(3), F.S.
[8] Section 447.309(1), F.S.

III. Effect of Proposed Changes:

This bill requires school districts to enter into interlocal agreements to establish the School District Insurance Consortium (Consortium) for the provision of health, accident, and hospitalization insurance.

The Consortium is organized as a nine-member board of directors, with representation as follows:

- Three members who are elected school board members appointed by the Florida School Boards Association;
- Three members who are elected or appointed school superintendents appointed by the Florida Association of District School Superintendents;
- Two members who are public school teachers or support personnel appointed by the Florida Education Association; and
- One member who has experience operating employee benefit systems.

Members serve two-year terms. It appears that reappointments are authorized. The board of directors is authorized to hire staff or contract for staffing services.

This bill requires that Consortium-purchased insurance be competitively bid. Insurance may be purchased for statewide or regional use and, if regional, the Consortium must include districts of different sizes. Multiple providers are authorized.

School districts are required to collectively bargain for all units of employees who will be provided insurance, consistent with current law.

The Department of Management Services must provide technical services to the Consortium, as requested.

To opt-out, a school board must hold a properly noticed public meeting and find that it is less expensive to purchase insurance elsewhere. Therefore, some school districts may continue to purchase insurance independently, provided that they comply with the process required in current law.

This bill takes effect upon the latter of July 1, 2013, or upon expiration or renewal date of any existing contract. Therefore, this legislation would not alter the terms of existing contracts.

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:

Article II, section 5(a) of the Florida Constitution prohibits a person from simultaneously holding more than one "office" under the government of the state, counties, and municipalities. School district superintendents and school board members are "officers" for the purposes of the constitutional provision.[9] When additional or ex officio duties are assigned to a particular office, regardless of who may be occupying that office, by the legislative body and there is no inconsistency between the new and the preexisting duties, the dual office-holding prohibition does not preclude such an assignment.[10] Therefore, an additional legislative assignment to serve on a board responsible for procuring insurance for school district officers and employees, and their dependents, likely constitutes an *ex officio* duty consistent with the current responsibilities of board members and district school superintendents, and should not violate the constitutional dual office-holding prohibition.

E. Tax/Fee Issues:

None.

F. Private Sector Impact:

With a greater volume of participants in the pool, better benefits may be offered, resulting in cost savings for claimants.

G. Government Sector Impact:

The Department of Education indicates that economies of scale through joint purchases of group insurance will likely result in a cost savings to school districts, with the amount indeterminate at this time.

The requirement that the Department of Management Services provide technical services upon request may result in a fiscal impact, but it is likely to be insignificant.

V. Technical Deficiencies:

None.

VI. Related Issues:

It is unclear by what standards procurement for insurance must be conducted. The Department of Education expresses that it is uncertain if the competitive bid process required in the bill triggers that which is required under current law, or if it establishes a separate process that would operate

[9] *In re Advisory Opinion to Governor-Sch. Bd. Member-Suspension Auth.*, 626 So. 2d 684, 689-90 (Fla. 1993).
[10] *Bath Club, Inc. v. Dade County*, 394 So. 2d 110, 112 (Fla. 1981).

outside of State Board of Education Rule 6A-1.012, F.A.C., which governs school district purchasing requirements.

Though the bill provides for collective bargaining for those matters subject to collective bargaining, it is unclear when such bargaining will take place, given that individual school districts may be purchasing insurance through the consortium at different times.

"Financially advantageous" is not specifically defined on line 121 of the bill, which could potentially lead to disagreement as to when a school district could opt to purchase insurance outside the plan. For example, if the consortium offered insurance with lower benefit levels and higher deductibles than the district could purchase on its own, would the district be obligated to purchase the consortium's insurance?

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Gaetz

4-00047-12 2012366__

A bill to be entitled

An act relating to group insurance for public employees; amending s. 112.08, F.S.; requiring that school districts procure certain types of insurance for their officers and employees through interlocal agreements; providing an exception; requiring each school district to enter into an interlocal agreement and establish the School District Insurance Consortium governed by a board of directors; providing for membership and specifying terms of office for board members; authorizing the board to employ staff or contract for staffing services to be provided to the consortium; requiring the Department of Management Services to provide technical services to the consortium; requiring the consortium to advertise for competitive bids for insurance; authorizing the awarding of bids on a statewide or regional basis and the selection of multiple insurance providers; requiring that school districts engage in collective bargaining with certified bargaining agents; providing an effective date.

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

Section 1. Subsection (2) of section 112.08, Florida Statutes, is amended to read:

112.08 Group insurance for public officers, employees, and certain volunteers; physical examinations.—

(2)~~(a)~~ Notwithstanding any general law or special act to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00047-12 2012366__

the contrary and except as provided under paragraph (c), every local governmental unit may ~~is authorized to~~ provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kinds of such insurance, for the officers and employees of the local governmental unit and for health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees upon a group insurance plan and, to that end, to enter into contracts with insurance companies or professional administrators to provide such insurance.

(a) Before entering any contract for insurance, the local governmental unit shall advertise for competitive bids,~~;~~ and such contract shall be let upon the basis of such bids. If a contracting health insurance provider becomes financially impaired as determined by the Office of Insurance Regulation of the Financial Services Commission or otherwise fails or refuses to provide the contracted-for coverage or coverages, the local government may purchase insurance, enter into risk management programs, or contract with third-party administrators and may make such acquisitions by advertising for competitive bids or by direct negotiations and contract. The local governmental unit may undertake simultaneous negotiations with those companies that ~~which~~ have submitted reasonable and timely bids and are found by the local governmental unit to be fully qualified and capable of meeting all servicing requirements. Each local governmental unit may self-insure any plan for health, accident, and hospitalization coverage or enter into a risk management consortium to provide such coverage, subject to approval based

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 on actuarial soundness by the Office of Insurance Regulation;
60 and each shall contract with an insurance company or
61 professional administrator qualified and approved by the office
62 to administer such a plan.
63 (b) In order to obtain approval from the Office of
64 Insurance Regulation of any self-insured plan for health,
65 accident, and hospitalization coverage, each local governmental
66 unit or consortium shall submit its plan along with a
67 certification as to the actuarial soundness of the plan, which
68 certification is prepared by an actuary who is a member of the
69 Society of Actuaries or the American Academy of Actuaries. The
70 Office of Insurance Regulation may ~~shall~~ not approve the plan
71 unless it determines that the plan is designed to provide
72 sufficient revenues to pay current and future liabilities, as
73 determined according to generally accepted actuarial principles.
74 After implementation of an approved plan, each local
75 governmental unit or consortium shall annually submit to the
76 Office of Insurance Regulation a report that ~~which~~ includes a
77 statement prepared by an actuary who is a member of the Society
78 of Actuaries or the American Academy of Actuaries as to the
79 actuarial soundness of the plan. The report is due 90 days after
80 the close of the fiscal year of the plan. The report must
81 include ~~shall consist of~~, but need ~~is~~ not be limited to:
82 1. The adequacy of contribution rates in meeting the level
83 of benefits provided and the changes, if any, needed in the
84 contribution rates to achieve or preserve a level of funding
85 deemed adequate to enable payment of the benefit amounts
86 provided under the plan and a valuation of present assets, based
87 on statement value, and prospective assets and liabilities of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 the plan and the extent of any unfunded accrued liabilities.
89 2. A plan to amortize any unfunded liabilities and a
90 description of actions taken to reduce unfunded liabilities.
91 3. A description and explanation of actuarial assumptions.
92 4. A schedule illustrating the amortization of any unfunded
93 liabilities.
94 5. A comparative review illustrating the level of funds
95 available to the plan from rates, investment income, and other
96 sources realized over the period covered by the report with the
97 assumptions used.
98 6. A statement by the actuary that the report is complete
99 and accurate and that in the actuary's opinion the techniques
100 and assumptions used are reasonable and meet the requirements
101 and intent of this subsection.
102 7. Other factors or statements as required by the office in
103 order to determine the actuarial soundness of the plan.
104
105 All assumptions used in the report must ~~shall~~ be based on
106 recognized actuarial principles acceptable to the Office of
107 Insurance Regulation. The office shall review the report and
108 ~~shall~~ notify the administrator of the plan and each entity
109 participating in the plan, as identified by the administrator,
110 of any actuarial deficiencies. Each local governmental unit is
111 responsible for payment of valid claims of its employees which
112 ~~that~~ are not paid within 60 days after receipt by the plan
113 administrator or consortium.
114 (c) Beginning July 1, 2013, or upon the expiration or
115 renewal date of any existing contract, whichever occurs later,
116 school districts shall procure health, accident, and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 hospitalization insurance through a purchasing interlocal
118 agreement unless the school board at a duly noticed public
119 meeting determines that purchasing insurance outside the plan
120 procured through the interlocal agreement, as provided under
121 paragraphs (a) and (b), is financially advantageous to the
122 school district.
123 1. Each school district shall enter into an interlocal
124 agreement as provided in s. 163.01 in order to establish the
125 School District Insurance Consortium through which such
126 insurance shall be procured for officers and employees of the
127 school district and their dependents.
128 2. The consortium shall be governed by a board of directors
129 comprised of nine members, three of whom shall be elected school
130 board members appointed by the Florida School Boards
131 Association, Inc., three of whom shall be elected or appointed
132 superintendents of schools appointed by the Florida Association
133 of District School Superintendents, Inc., two of whom shall be
134 public school teachers or support personnel appointed by the
135 Florida Education Association, and one of whom shall have
136 experience in running employee-benefit systems, to be appointed
137 by the other members of the consortium. Consortium board members
138 shall be appointed to 2-year terms. The board may employ staff
139 or contract for staffing services to be provided to the
140 consortium. The Department of Management Services shall provide
141 technical services to the consortium as requested by the board.
142 3. Notwithstanding any other provision of law, the
143 consortium shall advertise for competitive bids for such
144 insurance, and the contracts for such insurance shall be let
145 upon the basis of such bids. The consortium shall advertise for

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 proposals for a statewide insurance plan as well as plans
147 providing coverage on a regional basis. In determining
148 appropriate regions, the consortium shall group school districts
149 geographically in a manner that includes school districts of
150 varying sizes for the purpose of ensuring the availability of
151 coverage for all districts in the region. Contracts may be
152 awarded on a statewide or regional basis, and more than one
153 provider may be selected to provide insurance. School districts
154 shall engage in collective bargaining with the certified
155 bargaining agent for any unit of employees for which health,
156 accident, or hospitalization insurance is provided, as required
157 by part II of chapter 447, with regard to coverage offered, cost
158 for dependent coverage, deductibles, optional coverage, and
159 other matters that are subject to collective bargaining as
160 required by state law.
161 (d) ~~(c)~~ Every local governmental unit may ~~is authorized to~~
162 expend funds for preemployment physical examinations and
163 postemployment physical examinations.
164 Section 2. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/5/2011
Meeting Date

Topic: Insurance

Bill Number: SB 366 *(if applicable)*

Name: Wayne Blanton

Amendment Barcode: *(if applicable)*

Job Title: Executive Director FSBA

Address: 203 S. Monroe St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 414-2578

E-mail: [illegible]

Speaking: [✓] For [ ] Against [✓] Information

Representing: Fla. School Boards Assc.

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/5/2011
Meeting Date

Topic: Group Insurance

Bill Number: 366 *(if applicable)*

Name: BRIAN PITTS

Amendment Barcode: *(if applicable)*

Job Title: TRUSTEE

Address: 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone: 727-897-9291

E-mail: JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing: JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)