

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.	<u>Brown</u>	<u>Matthews</u>	<u>ED</u>	Favorable
2.	<u>McKay</u>	<u>Roberts</u>	<u>GO</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
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 employee ¹	Dollar amount of health insurance costs paid by the employee ¹	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	4065.00
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.