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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services (Bean)
recommended the following:

Senate Amendment

Delete lines 116 - 281
and insert:
required regardless of the type of bid or negotiation process
used by the agency or the type of final contract or agreement
executed for services.

(d) Is identified by the vendor as eligible to participate
in the program.

(e) Submits evidence at the time of contract award and



11 throughout the contract term of a surety bond or a comparable
12 security arrangement from this state or any other state in the
13 United States in the minimum amount of \$1 million. The agency
14 shall reevaluate and adjust the amount of the bond annually,
15 based on program volume. The surety bond or comparable security
16 arrangement must include the State of Florida as a beneficiary.
17 In lieu of the surety bond, the supplier may provide a
18 comparable security arrangement, such as an irrevocable letter
19 of credit or a deposit into a trust account or financial
20 institution which includes the State of Florida as a
21 beneficiary. The purposes of the bond or other security
22 arrangement for the program are to:

23 1. Indemnify the supplier in the event that any civil or
24 criminal legal action is brought by the state, the agency, any
25 other state agency, or private individuals or entities against
26 the supplier because of the supplier's failure to perform under
27 the contract, including, but not limited to, causes of action
28 for personal injury, negligence, and wrongful death;

29 2. Ensure payment by the supplier of legal judgments and
30 claims that have been awarded to the state, the agency, other
31 entities acting on behalf of the state, individuals, or
32 organizations if the supplier is assessed a final judgment or
33 other monetary penalty in a court of law for a civil or criminal
34 action related to participation in the program. The bond or
35 comparable security arrangement may be accessed if the supplier
36 fails to pay any judgment or claim within 60 days after final
37 judgment; and

38 3. Allow for civil and criminal litigation claims to be
39 made against the bond or other comparable security arrangement



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40 for up to 1 year after the supplier's contract under the program
41 has ended with the agency or the state, the supplier's license
42 is no longer valid, or the program has ended, whichever occurs
43 last.

44 (4) ELIGIBLE IMPORTERS.—

45 (a) The following entities or persons may import
46 prescription drugs from a Canadian supplier under the program:

47 1. A wholesale distributor.

48 2. A pharmacy.

49 3. A pharmacist.

50 (b) An eligible importer must meet all of the following
51 requirements at the time of contract award and throughout the
52 contract term:

53 1. Register with the vendor before importing drugs into
54 this state under the program and be deemed in compliance with
55 all requirements, including any relevant provisions of the
56 Federal Act.

57 2. Submit evidence at the time of contract award and
58 throughout the contract term of a surety bond or other
59 comparable security arrangement from this state or any other
60 state in the United States in the minimum amount of \$1 million.
61 The surety bond or comparable security arrangement must include
62 the State of Florida as a beneficiary. In lieu of the surety
63 bond, the importer may provide a comparable security agreement,
64 such as an irrevocable letter of credit or a deposit into a
65 trust account or financial institution which includes the State
66 of Florida as a beneficiary, payable to the State of Florida.
67 The purposes of the bond or other security arrangement for the
68 program are to:



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69 a. Ensure payment of any administrative penalties imposed
70 by the agency or any other state agency under the contract when
71 the importer fails to pay within 30 days after assessment;

72 b. Ensure that the importer meets contractual and statutory
73 obligations through use of a bond or other comparable security
74 arrangements to pay any other costs or fees incurred by the
75 agency, the state, or other entities acting on behalf of the
76 state if the importer fails to meet its contractual and
77 statutory obligations. If the importer is assessed a penalty
78 under the program and fails to pay within 30 days after that
79 assessment, the agency, the state, or an entity acting on behalf
80 of the state may file a claim for reimbursement against the bond
81 or other comparable security arrangement; and

82 c. Allow for claims to be made against the bond or other
83 comparable security arrangements for up to 1 year after the
84 importer's contract under the program has ended with the agency
85 or the state, the importer's license is no longer valid, or the
86 program has ended, whichever occurs last.

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88 A surety bond or comparable document is required, regardless of
89 the type of bid or negotiation process the agency used or the
90 type of final contract or agreement executed for services.

91 (c) An eligible importer must submit evidence at the time
92 of contract award and throughout the contract term of a surety
93 bond or comparable security arrangement from this state or any
94 other state in the United States in the minimum amount of \$1
95 million. The agency shall reevaluate and adjust the amount of
96 the bond annually, based on program volume. The surety bond or
97 comparable security arrangement must include the State of



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98 Florida as a beneficiary. In lieu of the surety bond, the
99 importer may provide a comparable security agreement, such as an
100 irrevocable letter of credit or a deposit into a trust account
101 or financial institution which includes the State of Florida as
102 a beneficiary, payable to the State of Florida. The purposes of
103 the bond or other security arrangement for the program are to:

104 1. Ensure the importer's participation in any civil or
105 criminal legal action by the state, the agency, any other state
106 agency, or private individuals or entities against the importer
107 because of the importer's failure to perform under the contract,
108 including, but not limited to causes of action for personal
109 injury, negligence, and wrongful death;

110 2. Ensure payment by the importer through the use of a bond
111 or other comparable security arrangements of legal judgments and
112 claims that have been awarded to the agency, the state, other
113 entities acting on behalf of the state, individuals, or
114 organizations if the importer is assessed a final judgment or
115 other monetary penalty in a court of law for a civil or criminal
116 action under the program. The bond or comparable security
117 arrangement may be accessed if the importer fails to pay any
118 judgment or claim within 60 days after final judgment; and

119 3. Allow for civil and criminal litigation claims to be
120 made against the bond or other comparable security arrangements
121 for up to 1 year after the importer's contract under the program
122 has ended with the agency or the state, the importer's license
123 is no longer valid, or the program has ended, whichever occurs
124 last.

125 (5) IMPORTATION PROCESS.

126 (a) The agency shall contract with a vendor to provide



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127 services under the program. The vendor shall submit evidence of
128 a surety bond with any bid or initial contract negotiation
129 documents and shall maintain documentation of evidence of such a
130 bond with the agency throughout the contract term. The surety
131 bond may be from this state or any other state in the United
132 States in the minimum amount of \$1 million. The surety bond or
133 comparable security arrangement must include the State of
134 Florida as a beneficiary. In lieu of the surety bond, the vendor
135 may provide a comparable security agreement, such as an
136 irrevocable letter of credit or a deposit into a trust account
137 or financial institution which includes the State of Florida as
138 a beneficiary, payable to the State of Florida. The purposes of
139 the bond or other security arrangement for the program are to:
140 1. Ensure payment of any administrative penalties imposed
141 by the agency or any other state agency under the contract when
142 the vendor fails to pay within 30 days after assessment;
143 2. Ensure that the vendor meets contractual and statutory
144 obligations through use of a surety bond or other comparable
145 security arrangements to pay any other costs or fees incurred by
146 the agency, the state, or other entities acting on behalf of the
147 state if the vendor fails to meet its contractual and statutory
148 obligations. If the vendor is assessed a penalty under the
149 program and fails to pay within 30 days after that assessment,
150 the agency, the state, or an entity acting on behalf of the
151 state may file a claim for reimbursement against the bond or
152 other comparable security arrangement; and
153 3. Allow for claims to be made against the bond or other
154 comparable security arrangements for up to 1 year after the
155 vendor's contract under the program has ended with the agency or



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156 the state or the program has ended, whichever occurs last.

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158 A surety bond or comparable document is required, regardless of
159 the type of bid or negotiation process the agency used or the
160 type of final contract or agreement executed for services.

161 (b) The eligible vendor must submit evidence at the time of
162 contract award and throughout the contract term of a surety bond
163 or comparable security arrangement from this state or any other
164 state in the United States in the minimum amount of \$1 million.
165 The agency shall reevaluate and adjust the amount of the bond
166 annually, based on program volume. The surety bond or comparable
167 security arrangement must include the State of Florida as a
168 beneficiary. In lieu of the surety bond, the vendor may provide
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