

Tab 1	SB 856 by Broxson; (Identical to H 00373) Education					
700896	A	S	RCS	GO, Broxson	Delete L.19:	04/24 06:15 PM

Tab 2	SB 1640 by Broxson; (Compare to CS/H 01163) Administrative Procedures					
831350	D	S	WD	GO, Broxson	Delete everything after	04/24 06:14 PM

Tab 3	CS/SB 1768 by BI, Lee; (Compare to CS/CS/1ST ENG/H 01063) Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles					
747482	A	S	RCS	GO, Lee	Delete L.20 - 73:	04/24 06:14 PM

Tab 4	HB 7007 by HHS, Brodeur; (Similar to S 00900) State Group Insurance Program					
691160	A	S	FAV	GO, Baxley	btw L.162 - 163:	04/24 05:28 PM
611870	A	S	FAV	GO, Baxley	Delete L.178 - 179:	04/24 05:28 PM
612856	A	S	FAV	GO, Baxley	Delete L.263:	04/24 05:28 PM
969732	A	S	FAV	GO, Baxley	Delete L.403 - 407:	04/24 05:28 PM
919800	A	S	FAV	GO, Baxley	Delete L.421:	04/24 05:28 PM
964332	A	S	FAV	GO, Baxley	Delete L.458:	04/24 05:28 PM
538286	A	S	FAV	GO, Baxley	Delete L.469 - 511:	04/24 05:28 PM
203288	A	S	FAV	GO, Baxley	Delete L.566:	04/24 05:28 PM

Tab 5	SPB 7030 by GO; Retirement					
276328	A	S	UNFAV	GO, Rouson	Delete L.480 - 1079:	04/25 04:23 PM
435512	A	S	UNFAV	GO, Rouson	Delete L.1298 - 1316:	04/25 04:23 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Baxley, Chair

MEETING DATE: Monday, April 24, 2017
TIME: 3:00—4:30 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Baxley, Chair; Senators Galvano, Grimsley, Rader, Rouson, Simpson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 856 Broxson (Identical H 373)	Education; Prohibiting a district school board from awarding an annual contract for instructional personnel under certain circumstances; prohibiting a district school board from altering or limiting its authority to award or not award an annual contract, etc. ED 04/03/2017 Favorable GO 04/17/2017 Temporarily Postponed GO 04/24/2017 Fav/CS RC	Fav/CS Yeas 3 Nays 2
2	SB 1640 Broxson (Compare CS/H 1163)	Administrative Procedures; Requiring an agency to prepare a statement of estimated regulatory costs before adoption, amendment, or repeal of any rule other than an emergency rule, etc. GO 04/24/2017 Favorable JU RC	Favorable Yeas 6 Nays 0
3	CS/SB 1768 Banking and Insurance / Lee (Compare CS/CS/H 1063, Linked S 1766)	Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles; Revising an exemption from public records requirements to exempt certain information held by the Department of Highway Safety and Motor Vehicles relating to medical payments coverage and liability motor vehicle insurance policies, rather than relating to personal injury protection and property damage liability insurance policies; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. BI 04/03/2017 Not Considered BI 04/13/2017 Fav/CS GO 04/24/2017 Fav/CS AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Monday, April 24, 2017, 3:00—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	HB 7007 Health and Human Services Committee / Brodeur (Similar S 900)	State Group Insurance Program; Authorizes state group insurance program to include additional benefits & for employees to use certain portion of state's contribution to purchase additional & supplemental benefits; requires DMS to develop plan for implementation of benefit levels, submit report, & contract with independent benefits consultant & entity that provides comprehensive pricing & certain inclusive services; directs DMS to provide premium alternatives to Governor & Legislature by specified date; provides criteria for calculating premium alternatives; provides appropriation & authorizes positions. GO 04/24/2017 Fav/8 Amendments AGG AP RC	Fav/8 Amendments (691160, 611870, 612856, 969732, 919800, 964332, 538286, 203288) Yeas 5 Nays 2
Consideration of proposed bill:			
5	SPB 7030	Retirement; Establishing a presumption as to a firefighter's condition or impairment of health caused by certain types of cancer he or she contracts in the line of duty; authorizing renewed membership in the Florida Retirement System for retirees who are reemployed in a position eligible for the Elected Officers' Class under certain circumstances; revising criteria for eligibility of payment of death benefits to the surviving children of a Special Risk Class member killed in the line of duty under specified circumstances, etc.	Submitted and Reported Favorably as Committee Bill Yeas 4 Nays 3
Other Related Meeting Documents			

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 Committee on Governmental Oversight and Accountability

BILL: CS/SB 856

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Broxson

SUBJECT: Education

DATE: April 25, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Benvenisty</u>	<u>Graf</u>	<u>ED</u>	Favorable
2.	<u>Ferrin</u>	<u>Ferrin</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 856 clarifies that a district school board must issue contracts on an annual basis to instructional personnel hired on or after July 1, 2011, by specifying that, except under certain circumstances, the district school board may not:

- Award an annual contract based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- Alter or limit its authority to award or not award an annual contract as provided in s. 1012.335, F.S.

The bill takes effect upon becoming law.

II. Present Situation:

Instructional personnel provide direct instructional services or direct instructional support to K-12 students.¹ Instructional personnel include:²

- Classroom teachers;³
- Staff who provide student personal services (e.g., guidance counselors, social workers, career specialists, and school psychologists);
- Librarians and media specialists;

¹ Section 1012.01(2), F.S.

² *Id.* at (2)(a)-(e).

³ Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

- Other instructional staff (e.g., learning resource specialists);⁴ and
- Education paraprofessionals.⁵

Three types of contracts are used to employ instructional personnel in Florida: continuing contracts,⁶ professional service contracts⁷, and annual contracts.⁸

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.⁹ As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis.¹⁰ The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may resign without breach of contract.¹¹ “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.¹²

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:¹³

- Holds an active professional certificate or temporary certificate issued pursuant to Florida law and rules of the State Board of Education.
- Has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board.
- Has not received two consecutive annual performance evaluation ratings of unsatisfactory, two annual performance evaluation ratings of unsatisfactory within a 3-year period, or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory pursuant to Florida law.

III. Effect of Proposed Changes:

The bill clarifies that a district school board must issue contracts on an annual basis to instructional personnel hired on or after July 1, 2011, by specifying that, except under certain circumstances, the district school board may not:

- Award an annual contract based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- Alter or limit its authority to award or not award an annual contract as provided in s. 1012.335, F.S.

⁴ *Id.* at (2)(d).

⁵ Educational paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding in the instructional process. *Id.* at (2)(e). The term includes classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals. *Id.*

⁶ Section 1012.33(3)(a)1.-3., F.S. (2010).

⁷ Section 231.36(1) and (3)(a)1.-4., F.S. (1981).

⁸ Section 1012.335(1)(a), F.S.

⁹ *Id.*

¹⁰ *Id.* at (2)(a)-(b), F.S.

¹¹ *Id.* at (1)(c).

¹² Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

¹³ *Id.* at (2)(c).

Additionally, the bill specifies that the provisions enumerated above only apply to collective bargaining agreements entered into or renewed by a district school board on or after this legislation is enacted. Accordingly, instructional personnel hired after the effective date of this bill may not be awarded an annual contract based on a contingency or condition that is not currently authorized in law.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties or municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1012.335 of the Florida Statutes.

IX. 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 April 24, 2017:

The amendment creates an exception for a county as defined in s. 125.011(1), F.S.¹⁴

- B. **Amendments:**

None.

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

¹⁴ Miami-Dade County is the only county that meets the criteria set forth in s. 125.011(1), F.S.



700896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 19

and insert:

(d) Except in a county as defined in s. 125.011(1), a
district school board may not:

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 7



700896

11 and insert:
12 authority to award or not award an annual contract
13 under certain circumstances;

By Senator Broxson

1-01397-17

2017856__

1 A bill to be entitled
2 An act relating to education; amending s. 1012.335,
3 F.S.; prohibiting a district school board from
4 awarding an annual contract for instructional
5 personnel under certain circumstances; prohibiting a
6 district school board from altering or limiting its
7 authority to award or not award an annual contract;
8 providing applicability; providing a directive to the
9 Division of Law Revision and Information; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (d) is added to subsection (2) of
15 section 1012.335, Florida Statutes, to read:
16 1012.335 Contracts with instructional personnel hired on or
17 after July 1, 2011.—

18 (2) EMPLOYMENT.—

19 (d) A district school board may not:

20 1. Award an annual contract on the basis of any contingency
21 or condition not expressly authorized in this section; or

22 2. Alter or limit its authority to award or not award an
23 annual contract as provided in this section.

24
25 This paragraph applies only to a collective bargaining agreement
26 entered into or renewed by a district school board on or after
27 the effective date of this act.

28 Section 2. The Division of Law Revision and Information is
29 directed to replace the phrase "the effective date of this act"
30 as it occurs in section 1 of this act with the date this act
31 takes effect.

32 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Vice Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Pre-K - 12 Education
Criminal Justice
Governmental Oversight and Accountability

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR DARRYL ROUSON

19th District

April 25, 2017

Chair Dennis Baxley
320 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chair Baxley,

I would like to record my vote for SB 856 in the negative.

Sincerely,

A handwritten signature in cursive script that reads "Darryl Rouson".

Senator Darryl Rouson

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

11.24.17

Meeting Date

856

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ken Williams

Job Title _____

Address 7411 Meadow Drive
Street

Phone 813-493-7685

Tampa FL 33634
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-24-17
Meeting Date

856
Bill Number (if applicable)

Topic STATE GROUP HEALTH FUND

Amendment Barcode (if applicable)

Name LARRY DUPREE

Job Title _____

Address 8301 N RIVER HIGHLANDS PL
Street

Phone 813-494-7070

TAMPA FL 33617
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SELF

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/17
Meeting Date

SB 856
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Linda Lewis

Job Title _____

Address 2846 S.W 4th Ct

Phone 954.609.6159

Street

Ft. Lauderdale, FL

33312

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

4-24-17
Meeting Date

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

SB 856
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Harold Berry Sr.

Job Title

Address 4364 Cascada Circle
Street

Phone 954-562-6011

Cooper FL 33024
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

4/24/17

Meeting Date

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

SB 856

Bill Number (if applicable)

Topic EDUCATION

Amendment Barcode (if applicable)

Name MARC RODRIGUES

Job Title

Address 3067 PARK LN. APT 2

Phone

Street

DUNEDIN

FL

34698

Email MARC RODRIGUES @GMAIL.COM

City

State

Zip

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing ~~SELF~~ SELF

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

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

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

SB 856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name William Bodaw

Job Title A Tractor worker

Address 714 Avenida Sexta Apt 202

Phone 727-⁷⁴²~~742~~-9713

Clermont FL 34714

Email bodaw@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

04/24/17

Meeting Date

SB 856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Joseph Gregg

Job Title Custodial

Address 603 Avenida Tercera, Apt. 111

Phone 207-239-2044

Street

Clermont

City

FL

State

34714

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-27-17

Meeting Date

SB 0856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Teresa McBride

Job Title Bus Operator Transportation

Address 600 S.W. 28th St.

Phone 954-270-5547

Street

Ft Lauderdale

City

FL

State

33312

Zip

Email teresa.mcbride@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing myself

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

SB 856
Bill Number (if applicable)

Topic EDUCATION

Amendment Barcode (if applicable)

Name CAROL NICOME BRADY

Job Title _____

Address 5000 NW 59 way
Street
Coral Springs FL 33067
City State Zip

Phone 954-345-7964

Email Cnicome@wa.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing myself

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/19

Meeting Date

SB 856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Noah Holliman

Job Title

Address 2704 Willow Lane Street

Phone 954-288-1436

Lauderdale Lakes City State Zip

Email

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [x] (The Chair will read this information into the record.)

Representing Myself

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

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

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

SB 856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Kenneth Redd

Job Title Aircraft Armament Tech

Address 100 Villacrest Dr.

Phone 850 902 1509

Street

Crestview

City

FL

State

32536

Zip

Email Kreddmoney@cox.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/2017
Meeting Date

SB 856
Bill Number (if applicable)

Topic EDUCATION

Amendment Barcode (if applicable)

Name RONALD G. CLARY

Job Title GRAND FATHER

Address 29900 COCONUT AVE

Phone 352 978 1441

Street EASTIS FL 32736
City State Zip

Email ron.law71@embu.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/17

Meeting Date

SB

~~8570~~ 8570

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Noah Holliman

Job Title _____

Address 2704 Willow Lane

Phone 954-288-1430

Street

Lauderdale Lakes

FL

33311

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Myself

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 24

SB 856

Meeting Date

Bill Number (if applicable)

Topic Annual Contract

Amendment Barcode (if applicable)

Name Lynda Russell

Job Title Lobbyist

Address 213 S. Adam St

Phone 850-224-2078

Tallahassee FL 32301

Email

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing Florida Education Association

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

Lobbyist registered with Legislature: Yes [x] 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

856

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone 850-224-0926

Tallahassee
City

FL
State

32304
Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/17

Meeting Date

SB 856

Bill Number (if applicable)

Topic Annual Contracts

Amendment Barcode (if applicable)

Name Andy Madtes

Job Title Executive Director

Address 3064 Highland Oaks Terrace

Phone 786 213 3702

Tallahassee FL 32301

Email amadtes@afsome.org

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [x] (The Chair will read this information into the record.)

Representing AFSOME Florida

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

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

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/2007

Meeting Date

SB 856

Bill Number (if applicable)

Topic Teacher Contract

Amendment Barcode (if applicable)

Name Jessica Janasiewicz (Jan-ah-see-witz)

Job Title Governmental Consultant

Address 119 South Monroe Street, Suite 202

Phone 850-681-6788

Street

Tallahassee

FL

32301

Email jessica@rutledge-ecenia.com

City

State

Zip

Speaking: [checked] For [] Against [] Information

Waive Speaking: [checked] In Support [] Against (The Chair will read this information into the record.)

Representing Santa Rosa County Schools

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

Lobbyist registered with Legislature: [checked] 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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-24-17
Meeting Date

856
Bill Number (if applicable)

Topic Annual Contracts

Amendment Barcode (if applicable)

Name BOB HARRIS

Job Title

Address 2618 Centennial Place

Phone 202-0720

Street

Tallahassee FL 32308

City

State

Zip

Email bharris@lawfla.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Panhandle Area Educational Consortium (PAEC)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

856
Bill Number (if applicable)

Topic SB 856 - Annual Contracts Amendment Barcode (if applicable)

Name Joe Minor

Job Title Labor & Legislative Relations

Address 2200 Biscayne Blvd
Street

Phone 305-332-6663

Miami FL 33137
City State Zip

Email Joe@UTD.ORG

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Teachers of Dade

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

856
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Marshall Ogletree

Job Title Executive Director

Address 115 N. Calhoun St., Suite 6

Phone 850-224-2078

Street

Tallahassee

City

FL

State

32301

Zip

Email marshall.ogletree@floridaea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

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 (10/14/14)

APPEARANCE RECORD

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

4/24/17

Meeting Date

856

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Spencer Pylant

Job Title Communications & Gov't Relations Liaison

Address 7227 Land O' Lakes Blvd.
Street

Phone 813-794-2259

Land O' Lakes FL 34638
City State Zip

Email spylant@pasco.k12.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Pasco County Schools

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.

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 Committee on Governmental Oversight and Accountability

BILL: SB 1640

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Broxson

SUBJECT: Administrative Procedures

DATE: April 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	Ferrin	GO	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1640 requires an agency to prepare a statement of estimated regulatory cost each time an agency makes, amends or repeals a rule.

The bill has a July 1, 2017, effective date.

II. Present Situation:

Rulemaking Authority

A rule is an “agency statement of general applicability that implements, interprets, or prescribes law or policy.”¹ Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.² An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.³ The statutory authority for rulemaking must be specific enough to guide an agency’s rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.⁴

Prior to the adoption, amendment, or repeal of any rule, an agency must file a notice of the proposed rule in the Florida Administrative Register.⁵ The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;

¹ Section 120.52(16), F.S.

² Section 120.52(17), F.S.

³ See ss. 120.52(8) and 120.536, F.S.

⁴ See *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla 1st DCA 2000).

⁵ See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

- The full text of the rule; and
- A summary of the agency’s statement of estimated regulatory costs (SERC), if one is prepared.⁶

Within 21 days of the notice, a person who is substantially affected by the agency’s proposed rule may provide an agency with supplementary information regarding the SERC or provide proposals for a lower cost regulatory alternative to the proposed rule.⁷ These lower cost regulatory alternatives must “substantially accomplish the objectives of the law” the agency is trying to implement through rulemaking.⁸ If someone submits a proposed lower cost alternative, the agency has the option of revising its SERC or creating a SERC (if one has not already been created).⁹

When an Agency Must Prepare a SERC

Agencies are “encouraged” to prepare SERCs before a rule is adopted, amended or repealed, however, this is not a requirement.¹⁰ Agencies are required to prepare SERCs in two circumstances: when the agency receives a lower cost alternative and if the agency believes that a proposed rule will have a fiscal impact under certain circumstances.

First, agencies must prepare a SERC when a person who is substantially affected by a proposed rule submits “a good faith written proposal for a lower cost regulatory alternative to the proposed rule.”¹¹ The lower cost regulatory alternative must accomplish objectives of the law the agency is trying to implement.¹² The lower cost alternative may also argue that the agency does not need to adopt a rule in order to implement the law.¹³

Second, agencies must prepare the SERC for a proposed rule if the agency believes that the proposed rule meets one of the following criteria:

- The proposed rule has an adverse impact on small businesses; or
- The proposed rule is likely to increase regulatory costs more than \$200,000 within one year after implementation. This \$200,000 threshold includes both direct and indirect regulatory costs.¹⁴

Agencies must revise their SERCs under certain circumstances if a rule is modified or revised.¹⁵

SERC Requirements

A SERC must include estimates of:

- The number of people and entities affected by the proposed rule;

⁶ Section 120.54(3)(a)1., F.S.

⁷ See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

⁸ Section 120.541(1)(a), F.S.

⁹ Section 120.541(1)(a), F.S.

¹⁰ Section 120.54(3)(b), F.S.

¹¹ Section 120.541(1)(a), F.S.

¹² Section 120.541(1)(a), F.S.

¹³ Section 120.541(1)(a), F.S.

¹⁴ Sections 120.54(3)(b), and 120.541(1)(b), F.S.

¹⁵ Section 120.541(1)(c), F.S.

- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule’s impact on small businesses, counties, and cities.¹⁶

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first five years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,¹⁷ productivity, or innovation; or
- Regulatory costs, including any transactional costs.¹⁸

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within five years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.¹⁹

SERCs Prepared by Agencies

The following chart shows the number of rules which agencies proposed, as well as the number of SERCs that are prepared and reviewed by the Joint Administrative Procedures Committee.²⁰

Year	Number of Proposed Rules	Number of SERCs	Percentage of Proposed Rules which Required SERCs
2016	1,918	44	2%
2015	2,851	57	2%
2014	1,771	153	8.6%
2013	2,795	391	14%
2012	2,382	334	14%

III. Effect of Proposed Changes:

The bill requires an agency to prepare SERCs before adopting, amending or repealing any rule, other than emergency rules. The bill requires agencies to revise their SERCs if someone submits a lower cost regulatory alternative to the agency.

¹⁶ Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

¹⁷ Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹⁸ Section 120.541(2)(a), F.S.

¹⁹ Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

²⁰ Email from Ken Plante, JAPC Coordinator, dated April 20, 2017, on file with the Senate Committee on Governmental Oversight and Accountability.

The bill has a July 1, 2017, effective date.

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate. Some agencies stated that this bill would have a negative impact on their ability to carry out their statutory duties because of the staff time it would take to prepare SERCs for every proposed rule. The majority of agencies stated that they would not be adversely impacted.²¹

VI. Technical Deficiencies:

The bill requires an agency to prepare a SERC even when it is unclear that a revision or repeal of a rule will have a fiscal or regulatory impact. For example, a rule may revise a form, and would be unlikely to have a fiscal or regulatory impact. In addition, this bill may have the effect of requiring an agency to prepare SERCs when the agency rule itself does not have any effect on

²¹Several agencies have provided bill analyses for a similar bill, HB 1163. The following agencies reported that they were neutral on the bill or would not be adversely impacted: Office of Program Policy Analysis and Government Accountability, Justice Administrative Commission, Statewide Guardian Ad Litem Office, Division of Administrative Hearings, Office of Legislative Services, Office of Financial Regulation, Auditor General, Department of Economic Opportunity, Agency for Persons with Disabilities, Department of Financial Services, and Agency for State Technology. The following agencies reported that HB 1163 would impact rulemaking because the agency would have to spend more staff time preparing SERCs, or slow down the rulemaking process: Office of Insurance Regulation, Department of Citrus, Commission on Ethics, and Department of Agriculture and Consumer Services. The Department of Agriculture and Consumer Services also noted that this bill has the potential of increasing rule challenges and litigation.

the public. For example, an agency must repeal a rule when the Legislature repeals the implementing statute.²² In such a case, the purpose of having an agency estimate the regulatory cost of the Legislature's repeal of a law is not clear.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.54, 120.541, and 120.56.

IX. Additional Information:

A. Committee Substitute – Statement of 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.

²² See s. 120.536(2) and (3), F.S.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a) and (b) of subsection (3) of
section 120.54, Florida Statutes, are amended to read:

120.54 Rulemaking.—

(3) ADOPTION PROCEDURES.—

(a) *Notices*.—

1. Prior to the adoption, amendment, or repeal of any rule



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11 other than an emergency rule, an agency, ~~upon approval of the~~
12 ~~agency head,~~ shall give notice of its intended action, setting
13 forth a short, plain explanation of the purpose and effect of
14 the proposed action; the full text of the proposed rule or
15 amendment and a summary thereof; a reference to the grant of
16 rulemaking authority pursuant to which the rule is adopted; and
17 a reference to the section or subsection of the Florida Statutes
18 or the Laws of Florida being implemented or interpreted. The
19 notice must include a summary of the agency's statement of the
20 estimated regulatory costs, if one has been prepared, based on
21 the factors set forth in s. 120.541(2); an agency website
22 address where the statement of estimated regulatory costs can be
23 viewed in its entirety; a statement that any person who wishes
24 to provide the agency with information regarding the statement
25 of estimated regulatory costs, or to provide a proposal for a
26 lower cost regulatory alternative as provided by s. 120.541(1),
27 must do so in writing within 21 days after publication of the
28 notice; and a statement as to whether, based on the statement of
29 the estimated regulatory costs or other information expressly
30 relied upon and described by the agency if no statement of
31 regulatory costs is required, the proposed rule is expected to
32 require legislative ratification pursuant to s. 120.541(3). The
33 notice must state the procedure for requesting a public hearing
34 on the proposed rule. Except when the intended action is the
35 repeal of a rule, the notice must include a reference both to
36 the date on which and to the place where the notice of rule
37 development that is required by subsection (2) appeared.

38 2. The notice shall be published in the Florida
39 Administrative Register not less than 28 days prior to the



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40 intended action. The proposed rule shall be available for
41 inspection and copying by the public at the time of the
42 publication of notice.

43 3. The notice shall be mailed to all persons named in the
44 proposed rule and to all persons who, at least 14 days prior to
45 such mailing, have made requests of the agency for advance
46 notice of its proceedings. The agency shall also give such
47 notice as is prescribed by rule to those particular classes of
48 persons to whom the intended action is directed.

49 4. The adopting agency shall file with the committee, at
50 least 21 days prior to the proposed adoption date, a copy of
51 each rule it proposes to adopt; a copy of any material
52 incorporated by reference in the rule; a detailed written
53 statement of the facts and circumstances justifying the proposed
54 rule; a copy of any statement of estimated regulatory costs that
55 has been prepared pursuant to s. 120.541; a statement of the
56 extent to which the proposed rule relates to federal standards
57 or rules on the same subject; and the notice required by
58 subparagraph 1.

59 (b) *Special matters to be considered in rule adoption.*—

60 1. Statement of estimated regulatory costs.—Before the
61 adoption ~~or, amendment, or repeal~~ of any rule other than an
62 emergency rule, an agency must ~~is encouraged to~~ prepare a
63 statement of estimated regulatory costs of the proposed rule, as
64 provided by s. 120.541. However, an agency is not required to
65 prepare a statement of estimated regulatory costs for a rule
66 repeal unless such repeal would impose a regulatory cost. In any
67 challenge to a rule repeal, such rule repeal must be considered
68 presumptively correct by the committee in any proceeding before



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69 the division or in any proceeding before a court of competent
70 jurisdiction ~~However, an agency must prepare a statement of~~
71 ~~estimated regulatory costs of the proposed rule, as provided by~~
72 ~~s. 120.541, if:~~

73 ~~a. The proposed rule will have an adverse impact on small~~
74 ~~business; or~~

75 ~~b. The proposed rule is likely to directly or indirectly~~
76 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~
77 ~~in this state within 1 year after the implementation of the~~
78 ~~rule.~~

79 2. Small businesses, small counties, and small cities.-

80 a. Each agency, before the adoption, amendment, or repeal
81 of a rule, shall consider the impact of the rule on small
82 businesses as defined by s. 288.703 and the impact of the rule
83 on small counties or small cities as defined by s. 120.52.
84 Whenever practicable, an agency shall tier its rules to reduce
85 disproportionate impacts on small businesses, small counties, or
86 small cities to avoid regulating small businesses, small
87 counties, or small cities that do not contribute significantly
88 to the problem the rule is designed to address. An agency may
89 define "small business" to include businesses employing more
90 than 200 persons, may define "small county" to include those
91 with populations of more than 75,000, and may define "small
92 city" to include those with populations of more than 10,000, if
93 it finds that such a definition is necessary to adapt a rule to
94 the needs and problems of small businesses, small counties, or
95 small cities. The agency shall consider each of the following
96 methods for reducing the impact of the proposed rule on small
97 businesses, small counties, and small cities, or any combination



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98 of these entities:

99 (I) Establishing less stringent compliance or reporting
100 requirements in the rule.

101 (II) Establishing less stringent schedules or deadlines in
102 the rule for compliance or reporting requirements.

103 (III) Consolidating or simplifying the rule's compliance or
104 reporting requirements.

105 (IV) Establishing performance standards or best management
106 practices to replace design or operational standards in the
107 rule.

108 (V) Exempting small businesses, small counties, or small
109 cities from any or all requirements of the rule.

110 b.(I) If the agency determines that the proposed action
111 will affect small businesses as defined by the agency as
112 provided in sub-subparagraph a., the agency shall send written
113 notice of the rule to the rules ombudsman in the Executive
114 Office of the Governor at least 28 days before the intended
115 action.

116 (II) Each agency shall adopt those regulatory alternatives
117 offered by the rules ombudsman in the Executive Office of the
118 Governor and provided to the agency no later than 21 days after
119 the rules ombudsman's receipt of the written notice of the rule
120 which it finds are feasible and consistent with the stated
121 objectives of the proposed rule and which would reduce the
122 impact on small businesses. When regulatory alternatives are
123 offered by the rules ombudsman in the Executive Office of the
124 Governor, the 90-day period for filing the rule in subparagraph
125 (e)2. is extended for a period of 21 days.

126 (III) If an agency does not adopt all alternatives offered



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127 pursuant to this sub-subparagraph, it shall, before rule
128 adoption or amendment and pursuant to subparagraph (d)1., file a
129 detailed written statement with the committee explaining the
130 reasons for failure to adopt such alternatives. Within 3 working
131 days after the filing of such notice, the agency shall send a
132 copy of such notice to the rules ombudsman in the Executive
133 Office of the Governor.

134 Section 2. Paragraph (b) of subsection (1) of section
135 120.541, Florida Statutes, is amended, and subsection (6) is
136 added to that section, to read:

137 120.541 Statement of estimated regulatory costs.-

138 (1)

139 (b) If a proposed rule will have an adverse impact on small
140 business or if the proposed rule is likely to directly or
141 indirectly increase regulatory costs ~~in excess of \$200,000 in~~
142 ~~the aggregate within 1 year after the implementation of the~~
143 ~~rule~~, the agency shall prepare a statement of estimated
144 regulatory costs as required by s. 120.54(3)(b).

145 (6) The Department of State shall include on the Florida
146 Administrative Register website the agency website addresses
147 where statements of estimated regulatory costs can be viewed in
148 their entirety.

149 (a) An agency that prepares a statement of estimated
150 regulatory costs must provide, as part of the notice required
151 under s. 120.54(3)(a), the agency website address where the
152 statement of estimated regulatory costs can be read in its
153 entirety to the department for publication in the Florida
154 Administrative Register.

155 (b) An agency that revises a statement of estimated



156 regulatory costs must provide a notice that a revision has been
157 made and an agency website address where the revision can be
158 viewed for publication in the Florida Administrative Register.

159 Section 3. This act shall take effect July 1, 2017.
160

161 ===== T I T L E A M E N D M E N T =====

162 And the title is amended as follows:

163 Delete everything before the enacting clause
164 and insert:

165 A bill to be entitled
166 An act relating to agency rulemaking; amending s.
167 120.54, F.S.; removing the requirement that an agency
168 head approve certain notices of intended agency action
169 before publication; requiring certain notices of
170 intended agency action to include an agency website
171 address for a specified purpose; requiring an agency
172 to prepare a statement of estimated regulatory costs
173 before adopting or amending any rule other than an
174 emergency rule; requiring an agency to prepare a
175 statement of estimated regulatory costs before
176 repealing a rule in certain circumstances; amending s.
177 120.541, F.S.; requiring the Department of State to
178 include on the Florida Administrative Register website
179 the agency website addresses where statements of
180 estimated regulatory costs can be viewed in their
181 entirety; requiring an agency to include in its notice
182 of intended agency action the agency website address
183 where the statement of estimated regulatory cost can
184 be read in its entirety; requiring an agency to



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185
186
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provide a notice of revision when an agency revises a
statement of estimated regulatory costs; providing an
effective date.

By Senator Broxson

1-01435-17

20171640__

1 A bill to be entitled
 2 An act relating to administrative procedures; amending
 3 ss. 120.54, 120.541, and 120.56, F.S.; requiring an
 4 agency to prepare a statement of estimated regulatory
 5 costs before adoption, amendment, or repeal of any
 6 rule other than an emergency rule; conforming
 7 provisions and a cross-reference to changes made by
 8 the act; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraphs (a) and (b) of subsection (3) of
 13 section 120.54, Florida Statutes, are amended to read:
 14 120.54 Rulemaking.—
 15 (3) ADOPTION PROCEDURES.—
 16 (a) *Notices.*—
 17 1. Prior to the adoption, amendment, or repeal of any rule
 18 other than an emergency rule, an agency, upon approval of the
 19 agency head, shall give notice of its intended action, setting
 20 forth a short, plain explanation of the purpose and effect of
 21 the proposed action; the full text of the proposed rule or
 22 amendment and a summary thereof; a reference to the grant of
 23 rulemaking authority pursuant to which the rule is adopted; and
 24 a reference to the section or subsection of the Florida Statutes
 25 or the Laws of Florida being implemented or interpreted. The
 26 notice must include a summary of the agency's statement of the
 27 estimated regulatory costs, ~~if one has been prepared,~~ based on
 28 the factors set forth in s. 120.541(2); a statement that any
 29 person who wishes to provide the agency with information

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

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20171640__

30 regarding the statement of estimated regulatory costs, or to
 31 provide a proposal for a lower cost regulatory alternative as
 32 provided by s. 120.541(1), must do so in writing within 21 days
 33 after publication of the notice; and a statement as to whether,
 34 based on the statement of the estimated regulatory costs ~~or~~
 35 ~~other information expressly relied upon and described by the~~
 36 ~~agency if no statement of regulatory costs is required,~~ the
 37 proposed rule is expected to require legislative ratification
 38 pursuant to s. 120.541(3). The notice must state the procedure
 39 for requesting a public hearing on the proposed rule. Except
 40 when the intended action is the repeal of a rule, the notice
 41 must include a reference both to the date on which and to the
 42 place where the notice of rule development that is required by
 43 subsection (2) appeared.
 44 2. The notice shall be published in the Florida
 45 Administrative Register not less than 28 days prior to the
 46 intended action. The proposed rule shall be available for
 47 inspection and copying by the public at the time of the
 48 publication of notice.
 49 3. The notice shall be mailed to all persons named in the
 50 proposed rule and to all persons who, at least 14 days prior to
 51 such mailing, have made requests of the agency for advance
 52 notice of its proceedings. The agency shall also give such
 53 notice as is prescribed by rule to those particular classes of
 54 persons to whom the intended action is directed.
 55 4. The adopting agency shall file with the committee, at
 56 least 21 days prior to the proposed adoption date, a copy of
 57 each rule it proposes to adopt; a copy of any material
 58 incorporated by reference in the rule; a detailed written

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

1-01435-17 20171640__
 59 statement of the facts and circumstances justifying the proposed
 60 rule; a copy of any statement of estimated regulatory costs that
 61 has been prepared pursuant to s. 120.541; a statement of the
 62 extent to which the proposed rule relates to federal standards
 63 or rules on the same subject; and the notice required by
 64 subparagraph 1.

(b) *Special matters to be considered in rule adoption.*—

1. Statement of estimated regulatory costs.—Before the
 67 adoption, amendment, or repeal of any rule other than an
 68 emergency rule, an agency is required ~~encouraged~~ to prepare a
 69 statement of estimated regulatory costs of the proposed rule, as
 70 provided by s. 120.541. ~~However, an agency must prepare a~~
 71 ~~statement of estimated regulatory costs of the proposed rule, as~~
 72 ~~provided by s. 120.541, if:~~

73 ~~a. The proposed rule will have an adverse impact on small~~
 74 ~~business; or~~

75 ~~b. The proposed rule is likely to directly or indirectly~~
 76 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~
 77 ~~in this state within 1 year after the implementation of the~~
 78 ~~rule.~~

2. Small businesses, small counties, and small cities.—

80 a. Each agency, before the adoption, amendment, or repeal
 81 of a rule, shall consider the impact of the rule on small
 82 businesses as defined by s. 288.703 and the impact of the rule
 83 on small counties or small cities as defined by s. 120.52.
 84 Whenever practicable, an agency shall tier its rules to reduce
 85 disproportionate impacts on small businesses, small counties, or
 86 small cities to avoid regulating small businesses, small
 87 counties, or small cities that do not contribute significantly

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 88 to the problem the rule is designed to address. An agency may
 89 define "small business" to include businesses employing more
 90 than 200 persons, may define "small county" to include those
 91 with populations of more than 75,000, and may define "small
 92 city" to include those with populations of more than 10,000, if
 93 it finds that such a definition is necessary to adapt a rule to
 94 the needs and problems of small businesses, small counties, or
 95 small cities. The agency shall consider each of the following
 96 methods for reducing the impact of the proposed rule on small
 97 businesses, small counties, and small cities, or any combination
 98 of these entities:

99 (I) Establishing less stringent compliance or reporting
 100 requirements in the rule.

101 (II) Establishing less stringent schedules or deadlines in
 102 the rule for compliance or reporting requirements.

103 (III) Consolidating or simplifying the rule's compliance or
 104 reporting requirements.

105 (IV) Establishing performance standards or best management
 106 practices to replace design or operational standards in the
 107 rule.

108 (V) Exempting small businesses, small counties, or small
 109 cities from any or all requirements of the rule.

110 b.(I) If the agency determines that the proposed action
 111 will affect small businesses as defined by the agency as
 112 provided in sub-subparagraph a., the agency shall send written
 113 notice of the rule to the rules ombudsman in the Executive
 114 Office of the Governor at least 28 days before the intended
 115 action.

116 (II) Each agency shall adopt those regulatory alternatives

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117 offered by the rules ombudsman in the Executive Office of the
 118 Governor and provided to the agency no later than 21 days after
 119 the rules ombudsman's receipt of the written notice of the rule
 120 which it finds are feasible and consistent with the stated
 121 objectives of the proposed rule and which would reduce the
 122 impact on small businesses. When regulatory alternatives are
 123 offered by the rules ombudsman in the Executive Office of the
 124 Governor, the 90-day period for filing the rule in subparagraph
 125 (e)2. is extended for a period of 21 days.

126 (III) If an agency does not adopt all alternatives offered
 127 pursuant to this sub-subparagraph, it shall, before rule
 128 adoption or amendment and pursuant to subparagraph (d)1., file a
 129 detailed written statement with the committee explaining the
 130 reasons for failure to adopt such alternatives. Within 3 working
 131 days after the filing of such notice, the agency shall send a
 132 copy of such notice to the rules ombudsman in the Executive
 133 Office of the Governor.

134 Section 2. Paragraphs (a) and (b) of subsection (1) of
 135 section 120.541, Florida Statutes, are amended, and present
 136 paragraphs (c) through (g) of that subsection are redesignated
 137 as paragraphs (b) through (f), respectively, to read:

138 120.541 Statement of estimated regulatory costs.—

139 (1) (a) Within 21 days after publication of the notice
 140 required under s. 120.54(3) (a), a substantially affected person
 141 may submit to an agency a good faith written proposal for a
 142 lower cost regulatory alternative to a proposed rule which
 143 substantially accomplishes the objectives of the law being
 144 implemented. The proposal may include the alternative of not
 145 adopting any rule if the proposal explains how the lower costs

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146 and objectives of the law will be achieved by not adopting any
 147 rule. If such a proposal is submitted, the 90-day period for
 148 filing the rule is extended 21 days. Upon the submission of the
 149 lower cost regulatory alternative, the agency shall ~~prepare a~~
 150 ~~statement of estimated regulatory costs as provided in~~
 151 ~~subsection (2), or shall~~ revise its prior statement of estimated
 152 regulatory costs, and either adopt the alternative or provide a
 153 statement of the reasons for rejecting the alternative in favor
 154 of the proposed rule.

155 ~~(b) If a proposed rule will have an adverse impact on small~~
 156 ~~business or if the proposed rule is likely to directly or~~
 157 ~~indirectly increase regulatory costs in excess of \$200,000 in~~
 158 ~~the aggregate within 1 year after the implementation of the~~
 159 ~~rule, the agency shall prepare a statement of estimated~~
 160 ~~regulatory costs as required by s. 120.54(3) (b).~~

161 Section 3. Paragraph (a) of subsection (2) of section
 162 120.56, Florida Statutes, is amended to read:

163 120.56 Challenges to rules.—

164 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

165 (a) A petition alleging the invalidity of a proposed rule
 166 shall be filed within 21 days after the date of publication of
 167 the notice required by s. 120.54(3) (a); within 10 days after the
 168 final public hearing is held on the proposed rule as provided by
 169 s. 120.54(3) (e)2.; within 20 days after the statement of
 170 estimated regulatory costs or revised statement of estimated
 171 regulatory costs, if applicable, has been prepared and made
 172 available as provided in s. 120.541(1) (c) ~~s. 120.541(1) (d)~~; or
 173 within 20 days after the date of publication of the notice
 174 required by s. 120.54(3) (d). The petitioner has the burden to

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175 prove by a preponderance of the evidence that the petitioner
176 would be substantially affected by the proposed rule. The agency
177 then has the burden to prove by a preponderance of the evidence
178 that the proposed rule is not an invalid exercise of delegated
179 legislative authority as to the objections raised. A person who
180 is not substantially affected by the proposed rule as initially
181 noticed, but who is substantially affected by the rule as a
182 result of a change, may challenge any provision of the resulting
183 proposed rule.

184 Section 4. This act shall take effect July 1, 2017.

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 Committee on Governmental Oversight and Accountability

BILL: CS/CS/SB 1768

INTRODUCER: Governmental Oversight and Accountability Committee; Banking and Insurance Committee and Senator Lee

SUBJECT: Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles

DATE: April 25, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>Ferrin</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1768 amends s. 324.242, F.S., to revise the public records exemption for information in personal injury protection and property damage liability insurance policies held by the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill makes personal identifying information and insurance policy numbers of insureds confidential and exempt from public disclosure. The bill applies the public records exemption to medical payments coverage, bodily injury coverage, property damage coverage, and personal injury protection (PIP) policies entered into before January 1, 2018. The change is necessary because SB 1766, the linked substantive bill, repeals the Florida Motor Vehicle No-Fault Law, which requires PIP coverage, and will create bodily injury liability financial responsibility requirements.

The bill will only take effect if SB 1766, or similar legislation, is adopted during this legislative session or an extension thereof and becomes law.

The public records exemption will be subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, a two-thirds vote from each chamber is required for passage.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” 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.” Section 119.011(2), F.S., defines “agency” to mean as “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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public record exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

The OGSR also requires specified questions to be considered during the review process.²¹ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²³

Section 324.242, F.S., Public Records Exemption for Motor Vehicle Insurance Policies

Every Florida registrant of a motor vehicle must obtain and provide proof of holding a motor vehicle insurance policy that includes \$10,000 in personal injury protection (PIP).²⁴ Additionally, s. 324.022, F.S., requires owners and operators of Florida-registered motor vehicles to maintain the ability to pay at least \$10,000 in property damage, which may be met by maintaining \$10,000 in property damage liability coverage.²⁵ A higher financial requirement is placed on commercial motor vehicles, taxicab owners and operators, for-hire passenger transportation vehicles, and registered vehicle owners or operators found guilty or that have plead nolo contendere to driving under the influence.²⁶

The DHSMV is notified by insurers that supply policies with personal injury protection or property damage liability coverage of renewals, cancellations, and non-renewals of these policies within 45 days of their effective dates, as required by s. 324.0221, F.S. The insurer must also notify the named insured in writing of the cancellation or non-renewal of a policy and give notice of the consequences from the failure of maintaining PIP and property damage coverage, including the loss of registration, loss of driving privileges, and imposition of reinstatement fees. The records held by the DHSMV contain the insurance company code, the policy number, driver's license number, personal identifying information (name and address), and information identifying the vehicle, including the vehicle identification number and the make, model, and year of the vehicle.

Section 324.242, F.S., exempts from public records requirements personal identifying information, including the name, address, driver's license number of insureds and former insureds, and the insurance policy number contained in PIP and property damage liability motor

²¹ Section 119.15(6)(a), F.S. The specified questions are:

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

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

²⁴ Section 627.733, F.S.

²⁵ Section 324.022, F.S.

²⁶ See ss. 324.023, F.S., and 324.032, F.S.

vehicle insurance policies.²⁷ The exemption serves to protect sensitive personal information concerning individuals whose reputation or safety from identity theft would be jeopardized if the information were released. The exemption also protects confidential information used for business advantage against competitors. The disclosure of this information could injure insurance companies in the market since competitors would be able to solicit the business of their policyholders. The information exempted by s. 324.242, F.S., is neither obtainable by alternate means nor protected under other exemptions. However, under s. 324.242, F.S., the DHSMV must release the policy number for a vehicle involved in an accident to any person involved in the accident, the attorney of any person involved in the accident, or a representative of the insurer of any person involved in the accident upon receipt of a written request and copy of the crash report.

SB 1766 (2017)

SB 1768 is linked to SB 1766. SB 1766 repeals the Florida Motor Vehicle No-Fault Law (No-Fault Law), which requires every owner and registrant of a motor vehicle in this state to maintain \$10,000 in PIP coverage. SB 1766 replaces the PIP coverage mandate with a medical payments (MedPay) coverage mandate of \$5,000. MedPay coverage under SB 1766 provides substantially similar coverage to current PIP medical benefits, except that it provides reimbursement for 100 percent of covered medical losses, whereas PIP reimburses only 80 percent of covered medical losses. SB 1766, provides that drivers and owners will be required to purchase Medpay coverage after January 1, 2018; however, the bill also provides that if insureds had PIP coverage before January 1, 2018, they could keep their PIP coverage until they renew their insurance policies or bought a new insurance policy.

SB 1766 enacts financial responsibility requirements for damages for liability because of accidents arising out of the ownership, maintenance, or use of a motor vehicle. SB 1766 retains the \$10,000 financial responsibility requirement for property damage that is in current law.

The effective date of SB 1766 is January 1, 2018.

III. Effect of Proposed Changes:

Section 1 amends s. 324.242, F.S., to revise the public records exemption in the current law for motor vehicle insurance information held by the DHSMV. The bill provides that the DHSMV must hold as confidential and exempt from public disclosure personal identifying information and insurance policy numbers of current and former insurance policy holders.

The public records exemption applies to policies that provide any of the following types of insurance coverage:

- Medpay coverage;
- Bodily injury liability;
- Property damage liability; and
- PIP coverage, if the insured bought the PIP insurance policy before January 1, 2018.

²⁷ The statutory predecessor to s. 324.242, F.S., was s. 627.736(9)(a), F.S., which was repealed as part of the Florida Motor Vehicle No-Fault Law on October 1, 2007.

The bill continues to allow DHSMV to release confidential and exempt policy numbers to the same entities in current law.

The public records exemption will be subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 justifies the exemption through legislative findings that it is a public necessity to make personal identifying information and policy numbers held by the DHSMV confidential and exempt. The section states that it is imperative that automobile drivers be properly insured to ensure public safety on the roads and highways. Consequently, insurers must report to the DHSMV and verify the issuance, renewal, nonrenewal, or cancellation of motor vehicle insurance policies. The information includes the personal identifying information of insureds and former insureds as well as insurance policy numbers. This information, if compiled, could create customer lists for each insurer in the state, which are traditionally considered proprietary business information. Further, public access to such information could be used to perpetuate fraud against an insured, put him or her at risk, or make the insured the target of uninvited solicitations from other insurers and others seeking to profit from motor vehicle accidents.

Section 3 makes the act effective on the same date that SB 1766 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption.

The bill contains the public necessity statement required by Article I, s. 24(c) of the Florida Constitution for a newly-created or expanded public records or public meetings exemption. The public record exemption appears to be no broader than necessary to accomplish the purpose outlined the public necessity statement. The public necessity statement appears to state with sufficient specificity the necessity for the public records exemption.

C. Trust Funds Restrictions:

None.

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. Statutes Affected:

This bill substantially amends section 324.242 of the Florida Statutes.

IX. Additional Information:A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Governmental Oversight and Accountability on April 24, 2017:**

- Adds PIP coverage entered into before January 1, 2018, to be confidential and exempt from public disclosure;
- Replaces the term motor vehicle liability with the terms bodily injury liability coverage and property damage liability coverage;
- Conforms the public necessity statement; and
- Makes technical changes.

CS by Banking and Insurance on April 13, 2017:

Provides that the bill is effective on the date SB 1766, or similar legislation, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 20 - 73

and insert:

324.242 Personal injury protection, medical payments,
bodily injury liability, and property damage liability insurance
policies; public records exemption.-

(1) The personal identifying information and an insurance
policy number of an insured or former insured which are the
following information regarding personal injury protection and



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11 ~~property damage liability insurance policies~~ held by the
12 department regarding insurance policies providing any of the
13 following coverages are ~~is~~ confidential and exempt from s.
14 119.07(1) and s. 24(a), Art. I of the State Constitution:

15 (a) Medical payments coverage ~~Personal identifying~~
16 ~~information of an insured or former insured; and~~

17 (b) Bodily injury liability coverage; ~~An insurance policy~~
18 ~~number.~~

19 (c) Property damage liability coverage; or

20 (d) For policies entered into before January 1, 2018,
21 personal injury protection coverage.

22 (2) Upon receipt of a request and proof of a crash report
23 as required under s. 316.065, s. 316.066, or s. 316.068, or a
24 crash report created pursuant to the laws of another state, the
25 department shall release the policy number for a policy covering
26 a vehicle involved in a motor vehicle accident to:

27 (a) Any person involved in such accident;

28 (b) The attorney of any person involved in such accident;

29 or

30 (c) A representative of the insurer of any person involved
31 in such accident.

32 (3) The department shall provide ~~personal injury protection~~
33 ~~and property damage liability insurance~~ policy numbers to
34 department-approved third parties that provide data collection
35 services to an insurer of any person involved in such accident.

36 (4) Before the department's release of a policy number in
37 accordance with subsection (2) or subsection (3), an insurer's
38 representative, a contracted third party, or an attorney for a
39 person involved in an accident must provide the department with



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40 documentation confirming proof of representation.

41 (5) Information made confidential and exempt by this
42 section may be disclosed to another governmental entity without
43 a written request or copy of the crash report if disclosure is
44 necessary for the receiving governmental entity to perform its
45 duties and responsibilities. For purposes of this subsection,
46 the term "governmental entity" means any federal, state, county,
47 district, authority, or municipal officer, department, division,
48 board, bureau, or commission created or established by law.

49 (6) This exemption applies to personal identifying
50 information of an insured or former insured and insurance policy
51 numbers held by the department before, on, or after October 11,
52 2007.

53 (7) This section is subject to the Open Government Sunset
54 Review Act in accordance with s. 119.15 and shall stand repealed
55 on October 2, 2022, unless reviewed and saved from repeal
56 through reenactment by the Legislature.

57 Section 2. The Legislature finds that it is a public
58 necessity to make confidential and exempt from the requirements
59 of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
60 the State Constitution the personal identifying information and
61 insurance policy numbers of an insured or former insured which
62 are held by the Department of Highway Safety and Motor Vehicles
63 regarding insurance policies providing medical payments
64 coverage; bodily injury liability coverage; property damage
65 liability coverage; or, for policies entered into before January
66 1, 2018, personal injury protection coverage. In order to ensure
67 public safety on the

68



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69 ===== T I T L E A M E N D M E N T =====

70 And the title is amended as follows:

71 Delete lines 4 - 11

72 and insert:

73 records requirements to exempt certain information of
74 insureds and former insureds held by the Department of
75 Highway Safety and Motor Vehicles regarding insurance
76 policies providing any of specified coverages;
77 conforming a provision to changes made by the act;
78 providing for future

By the Committee on Banking and Insurance; and Senator Lee

597-03764-17

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 324.242, F.S.; revising an exemption from public
 4 records requirements to exempt certain information
 5 held by the Department of Highway Safety and Motor
 6 Vehicles relating to medical payments coverage and
 7 liability motor vehicle insurance policies, rather
 8 than relating to personal injury protection and
 9 property damage liability insurance policies;
 10 requiring the department to provide certain policy
 11 numbers to specified parties; providing for future
 12 legislative review and repeal of the exemption;
 13 providing a statement of public necessity; providing a
 14 contingent effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 324.242, Florida Statutes, is amended to
 19 read:

20 324.242 Medical payments coverage and motor vehicle
 21 ~~Personal injury protection and property damage~~ liability
 22 insurance policies; public records exemption.—

23 (1) The following information regarding medical payments
 24 coverage and motor vehicle personal injury protection and
 25 ~~property damage~~ liability insurance policies held by the
 26 department is confidential and exempt from s. 119.07(1) and s.
 27 24(a), Art. I of the State Constitution:

28 (a) Personal identifying information of an insured or
 29 former insured; and

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30 (b) An insurance policy number.
 31 (2) Upon receipt of a request and proof of a crash report
 32 as required under s. 316.065, s. 316.066, or s. 316.068, or a
 33 crash report created pursuant to the laws of another state, the
 34 department shall release the policy number for a policy covering
 35 a vehicle involved in a motor vehicle accident to:
 36 (a) Any person involved in such accident;
 37 (b) The attorney of any person involved in such accident;
 38 or
 39 (c) A representative of the insurer of any person involved
 40 in such accident.
 41 (3) The department shall provide motor vehicle personal
 42 ~~injury protection and property damage~~ liability insurance and
 43 medical payments coverage policy numbers to department-approved
 44 third parties that provide data collection services to an
 45 insurer of any person involved in such accident.
 46 (4) Before the department's release of a policy number in
 47 accordance with subsection (2) or subsection (3), an insurer's
 48 representative, a contracted third party, or an attorney for a
 49 person involved in an accident must provide the department with
 50 documentation confirming proof of representation.
 51 (5) Information made confidential and exempt by this
 52 section may be disclosed to another governmental entity without
 53 a written request or copy of the crash report if disclosure is
 54 necessary for the receiving governmental entity to perform its
 55 duties and responsibilities. For purposes of this subsection,
 56 the term "governmental entity" means any federal, state, county,
 57 district, authority, or municipal officer, department, division,
 58 board, bureau, or commission created or established by law.

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59 (6) This exemption applies to personal identifying
60 information of an insured or former insured and insurance policy
61 numbers held by the department before, on, or after October 11,
62 2007.

63 (7) This section is subject to the Open Government Sunset
64 Review Act in accordance with s. 119.15 and shall stand repealed
65 on October 2, 2022, unless reviewed and saved from repeal
66 through reenactment by the Legislature.

67 Section 2. The Legislature finds and declares that it is a
68 public necessity to make certain information regarding bodily
69 injury liability insurance and medical payments coverage
70 policies held by the Department of Highway Safety and Motor
71 Vehicles confidential and exempt from the requirements of s.
72 119.07(1), Florida Statutes, and s. 24(a), Article I of the
73 State Constitution. In order to ensure public safety on the
74 roads and highways of this state, it is imperative that
75 automobile drivers be properly insured for liability for bodily
76 injury and damage to real property and be properly insured for
77 personal medical expenses. As such, insurers are required to
78 report to the department and verify the issuance to a driver of
79 a new policy as well as the renewal, nonrenewal, or cancellation
80 of that policy. Such information includes the personal
81 identifying information of an insured or former insured as well
82 as the insurance policy number of the insured. If this
83 information is compiled, it could result in a customer list of
84 every insurer in the state. Customer lists contain detailed
85 client and policy information that is traditionally considered
86 proprietary business information because such lists could be
87 used by competitors to solicit customers. Consequently, the

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88 release of that information could injure the insurer in the
89 marketplace by diminishing the advantage that the insurer
90 maintains over those who do not possess such information.
91 Further, public access to such information could be used to
92 perpetuate fraud against an insured and put him or her at risk
93 or to make the insured the target of uninvited solicitations
94 from other insurers or from others seeking to profit from motor
95 vehicle accidents.

96 Section 3. This act shall take effect on the same date that
97 SB 1766 or similar legislation takes effect, if such legislation
98 is adopted in the same legislative session or an extension
99 thereof and becomes a law.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Baxley, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: April 13, 2017

I respectfully request that **Senate Bill #1768**, relating to Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

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 Committee on Governmental Oversight and Accountability

BILL: HB 7007

INTRODUCER: Governmental Oversight and Accountability Committee; Health and Human Services Committee and Representative Brodeur

SUBJECT: State Group Insurance Program

DATE: April 25, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Fav/8 amendments
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

Sections I through VIII of the analysis discuss HB 7007, as passed by the House of Representatives. Section IX describes the amendments adopted by the Senate Committee on Governmental Oversight and Accountability.

HB 7007 amends provisions of the State Group Health Insurance Program (Program). The bill, for plan year 2020 and thereafter, requires the Department of Management Services (DMS) to offer four health insurance coverage levels of at least a certain actuarial value under the Program as follows: Platinum – 90 percent, Gold – 80 percent, Silver – 70 percent, and Bronze – 60 percent. The state will make a defined contribution for each employee toward the cost of purchasing a health plan. If the state’s contribution is more than the premium cost of the health plan selected by the employee, the bill specifies that the employee will be permitted to allocate unused state health insurance contributions to other benefits or as salary. The bill requires the DMS to recommend contribution policies and employee education strategies regarding the coverage levels and other benefit alternatives.

Beginning with plan year 2018, the bill permits the DMS to procure new types of health care products and services. For plan year 2018, the bill also requires the DMS to contract with an entity to provide enrollees with an online cost comparison for health care services and providers and at least one entity that provides comprehensive pricing and inclusive services for surgery and

other medical procedures. Enrollees may access these services, and the bill provides for the sharing of any savings. The DMS must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on certain criteria, including cost-savings to both enrollees and the state resulting from implementation of the Internet-based platform and the comprehensive services.

The bill requires the DMS to competitively procure an independent benefits consultant to assist the agency in developing a plan for implementation of the new benefit levels in the Program. This plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019.

By July 1, 2017, the DMS must submit proposed enrollee premium rates that reflect the differences in costs to the Program for each of the health maintenance organizations and the preferred provider organization plan options for the 2018 plan year to the Legislative Budget Commission for review and approval.

The bill appropriates \$151,216 in recurring funds and \$507,546 in nonrecurring funds from the State Employees Health Insurance Trust Fund to DMS and authorizes 2 full-time equivalent positions and \$120,000 of associated salary rate for the 2017-2018 fiscal year to implement the act.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

State Employee Health Insurance Program

The State Group Insurance Program (Program) is created by s. 110.123, F.S., and the DMS, through the Division of State Group Insurance (DSGI), administers the Program.¹ The Program is an optional benefit offered as part of the total compensation package for all state employees² including all state agencies, state universities, the court system, and the Legislature. The Program is governed by the Internal Revenue Code, federal laws, such as the Patient Protection and Affordable Care Act, Health Insurance Portability and Accountability Act, Consolidated Omnibus Budget Reconciliation Act, Medicare, and other provisions of law.

The DMS's projected health care and administrative spend for state fiscal year 2016-2017 is approximately \$2.3 billion.³ This amount is broken down into the following cost categories: medical (72%), prescription drugs (8.8%), and administration of the Program (3%).

¹ Chapter 60P, Florida Administrative Code, also governs the Program. The DMS has limited rule-making authority.

² See Section 110.123(2)(b), F.S. Surviving spouses of deceased state officers and employees, retired state officers and employees, individuals with continuation coverage, e.g. COBRA, and eligible dependents are eligible to participate in the Program.

³ Department of Management Services, *Overview of the State Group Health Insurance Program*, presentation to the Senate Appropriations Subcommittee on General Government on February 15, 2017 (Copy on file with the Senate Governmental Oversight and Accountability Committee).

The Program qualifies as a “cafeteria plan,”⁴ which offers flexible benefits under Section 125 of the Internal Revenue Code and allows employees to choose from a “menu” of benefits offered by the employer, including medical, accident, disability, vision, dental and group term life insurance. A cafeteria plan reduces both the employer’s and employee’s tax burden. Contributions by the employer are not subject to the employer social security contribution, and contributions made by the employee are not subject to federal income or social security taxes. In Florida, the Program includes health, life, dental, vision, disability, and other supplemental insurance benefits.

Health Plan Options

The Program offers four types of health plans from which an eligible employee may choose: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, or a Health Investor HMO Plan.

The PPO plan is the statewide, self-insured health plan administered by Florida Blue. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions.

The standard HMO plan is an insurance arrangement in which the state has contracted with multiple statewide and regional HMOs. Two of the HMOs (Capital Health Plan and Florida Health Plans) operate on a traditional fully insured model in which the HMOs assume all financial risk for the covered benefits. The other three (Aetna, AvMed, and United Health Care) operate on a self-insured model under which the state bears the risk of the medical claims.

Additionally, the Program offers two high-deductible health plans (HDHP)⁵ with health savings accounts (HSAs).⁶ The Health Investor PPO Plan is the statewide HDHP with an integrated HSA. It is also administered by Florida Blue. The Health Investor HMO Plan is an HDHP with an integrated HSA in which the state has contracted with multiple state and regional HMOs. Both have an individual deductible of \$1,300 for individual and \$2,600 for family for network providers.⁷ The state makes a \$500 per year contribution to the HSA for single coverage and a \$1,000 per year contribution for family coverage. The employee may make additional annual contributions⁸ to a limit of \$3,400 for single coverage and \$6,750 for family coverage. Both the employer and employee contributions are not subject to federal income tax on the employee’s

⁴ 26 USC sec. 125 requires that a cafeteria plan allow its members to choose between two or more benefits “consisting of cash and qualified benefits.” The proposed regulations define “cash” to include a “salary reduction arrangement” whereby salary is deducted pre-tax to pay the employee’s share of the insurance premium. Since the state program allows a “salary reduction arrangement”, the program qualifies as a cafeteria plan. 26 C.F.R. ss. 1.125-1, et seq.

⁵ High-deductible health plans with linked HSAs are also called consumer-directed health plans (CDHP) because costs of health care are more visible to the enrollee.

⁶ 26 USC sec. 223; To qualify as a high-deductible plan, the annual deductible must be at least \$1,300 for single plans and \$2,600 for family coverage, but annual out-of-pocket expenses cannot exceed \$6,550 for individual and \$13,100 for family coverage. These amounts are adjusted annually by the IRS.

⁷ Internal Revenue Service, Revenue Procedure 2016-28, April 29, 2016 (setting contribution limits for 2017 calendar year) available at <https://www.irs.gov/pub/irs-drop/rp-16-28.pdf> (last viewed on April 21, 2017).

⁸ *Id.* The IRS annually sets the contribution limit as adjusted by inflation.

income. Unused funds roll over automatically every year. An HSA is owned by the employee and is portable.

Currently, the Program offers flexible spending accounts (FSAs)⁹ as an optional benefit for employees. The FSA is funded through pre-tax payroll deductions from the employee's salary.¹⁰ The funds can be used to pay for medical expenses that are not covered by the employees' health plan. Prior to 2013, there was no limit on the contribution to a FSA; however, it is now limited to \$2,600¹¹ and subsequently adjusted for inflation. Unlike the HSA, the FSA is a "use it or lose it" arrangement.¹² If the employee does not annually use the contributions to the FSA, the contributions are forfeited.

Health reimbursement arrangements (HRAs) are defined contribution benefits established by an employer for their employees. Each year, an employer determines a specified amount, or a defined contribution benefit, of pre-tax dollars to assist employees with medical expenses. The employer can determine minimum and maximum contribution amounts; there are no federal limits. Typically associated with an HDHP, an HRA is entirely funded by the employer and provides tax-free reimbursements to employees for medical expenses.¹³ Unlike a FSA, an HRA is not a "use it or lose it" arrangement, but the employer may cap the rollover amount. The state program does not currently offer HRAs.

The following charts illustrate the benefit design of each of the plan choices and the distinctions between FSAs, HSAs, and HRAs:

⁹ Section 125 I.R.C.; see *IRS Publication 969* (2016) available at <https://www.irs.gov/pub/irs-pdf/p969.pdf> (last viewed on April 21, 2017).

¹⁰ Employers are also allowed to contribute to FSAs.

¹¹ Internal Revenue Service, *Revenue Procedure 2016-55*, October 25, 2016 (setting contribution limit for 2017 calendar year), available at <https://www.irs.gov/pub/irs-drop/rp-16-55.pdf> (last viewed on April 21, 2017).

¹² Beginning in 2013, an employee may carryover up to \$500 into the next calendar year.

¹³ An HRA can only be used for qualified medical expenses defined under s. 213(d), I.R.C., including health insurance and long-term care insurance.

	HMO Standard	PPO Standard	
	Network Only	Network	Out-of-Network
Deductible	None	\$250 \$500 Single Family	\$750 \$1,500 Single Family
Primary Care	\$20 copayment	\$15 copayment	40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist	\$40 copayment	\$25 copayment	
Urgent Care	\$25 copayment	\$25 copayment	
Emergency Room	\$100 copayment	\$100 copayment	
Hospital Stay	\$250 copayment	20% after \$250 copayment	40% after \$500 copayment plus the amount between the charge and the allowance
Generic Preferred Non-Preferred Prescriptions	\$7 \$30 \$50 Retail	\$7 \$30 \$50 Retail	Pay in full, file claim
	\$14 \$60 \$100 Mail Order	\$14 \$60 \$100 Mail Order	
Out-of-Pocket Maximum	\$1,500 \$3,000 Single Family	\$2,500 \$5,000 (coinsurance only) Single Family	

	PPO and HMO Health Investor	
	Network	Out-of-Network (PPO Only)
Deductible	\$1,300 \$2,600 Single Family	\$2,500 \$5,000 Single Family
Primary Care	After meeting deductible, 20% of network allowed amount	After meeting deductible, 40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist		After meeting deductible, 20% of out-of-network allowance
Urgent Care		
Emergency Room		
Hospital Stay		After meeting deductible, 40% after \$1,000 copayment plus the amount between the charge and the allowance
Generic Preferred Non-Preferred Prescriptions	After meeting deductible, 30% 30% 50% Retail and Mail Order	Pay in full, file claim
Out-of-Pocket Maximum	\$3,000 \$6,000 (coinsurance only) Single Family	\$7,500 \$15,000 (coinsurance only) Single Family

	FSA	HSA	HRA
Who funds the account?	Employee and employer (optional)	Employee, employer, and other individuals	Employer
How is it funded?	Employee payroll deduction; employer direct contribution - money is held by employer in "fund"	Cash contributions to bank account owned by employee	Employer pays up to promised amount
Account Owner	Employer	Employee	Employer
Contribution Limits	\$2,600 annually	Single - \$3,400 Family - \$6,750 Over 55 - additional \$1,000 for single coverage	Set by employer
Rollover of Funds?	Up to \$500 (federal law)	Yes	Yes, as determined by employer
Medical Expenses Allowed	IRC 213(d) expenses; ¹⁴	IRC 213(d) expenses	Post-tax health insurance premiums and IRC 213(d) expenses
High Deductible Health Plan Required?	No	Yes Minimum deductible: Single - \$1,300 Family - \$2,600 Max out-of-pocket: Single - \$6,550 Family - \$13,100	No

The PPO and HMO plans provide similar coverage, including prescription drug benefits, with the main difference being member cost share. The current standard PPO plan has higher member cost share (deductibles, copayments and coinsurance); while the current standard HMO plans have a lower member cost share with copayments only.

The high deductible plans have the highest member cost share (high deductible and coinsurance only) and meet the federal requirement of a minimum value plan that is affordable, as well as the Internal Revenue Code requirements that allow enrollment in a HSA. The annual contribution from the State Employee Health Insurance Trust Fund to an employee’s HSA is \$500 for single coverage and \$1,000 for family coverage.¹⁵ These contributions are funded as part of the employer paid premium for health insurance coverage and are made in equal monthly installments throughout the plan year. The participant may draw upon these funds to meet qualified medical expenses.¹⁶

DMS-contracted service providers and fully insured HMOs have established networks of contracted physicians, hospitals, clinics, surgical centers and other appropriately licensed health

¹⁴ Section 213(d), I.R.C., permits the deduction of expenses paid for medical care of the taxpayer, his or her spouse, or a dependent. Medical care includes amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease; transportation necessary for medical care; qualified long-term care services; and health insurance or long-term care insurance.

¹⁵ Section 110.123(12), F.S., provides that for the 2014-2015 fiscal year and thereafter, the state’s contribution from the State Employee Health Insurance Trust Fund into the member’s health savings account shall be set in the annual General Appropriations Act.

¹⁶ 26 U.S.C. s. 213(d).

care providers. The DMS relies upon the clinical expertise provided through its contracts with the service providers to determine medical necessity, process claims and appeals, develop medical coverage guidelines, and provide other clinical review and support as needed.

The DMS is not a party to the private business contracts between the service providers and their network providers. Negotiated network provider contracts, including fee schedules, network discounts and similar financial terms, are considered proprietary and trade secret by the DMS's service providers and are specifically protected as such under s. 110.123(5)(a), F.S., and ch. 119, F.S., as well as in contracts between the service providers and their network health care providers.

Health plan documents that describe the summary of benefits and coverages are approved annually in the General Appropriations Act. Annual revisions to such documents only include clarifications or changes consistent with new legislation. The DMS is not authorized to change covered benefits.

Enrollees are allowed to elect only one health insurance plan under the Program.

Plan Enrollment

The Program has 367,953 covered lives and 175,944 policyholders.¹⁷ Of the participants in the program, 54.6 percent are from agencies, 24.1 are from universities, 21 percent are retirees and other former employees, and .3 percent are from statutorily defined agencies.¹⁸ Currently, 52.9 percent of enrollees who chose the standard plan selected an HMO while 47.1 percent chose the PPO.¹⁹ Only 2 percent of enrollees chose either HDHP.²⁰ During the open enrollment period for 2015, PPO enrollment increased slightly, by 0.46 percent, and HMO enrollment decreased by 3.14 percent.²¹

Contribution Tiers and Amounts

The Program is considered employer-sponsored since the state contracts with providers and contributes a substantial amount on behalf of the employee toward the cost of the insurance premium. The state's employer contribution is part of a state employee's overall compensation. The state program is a defined-benefit program. In a defined-contribution program, the employer pays a set amount toward the monthly premium and the employee pays the remainder. The following chart²² shows the monthly contributions of the state and the employee to employee health insurance premium.

¹⁷ Department of Management Services, Email dated April 21, 2017 (Copy on file with the Senate Governmental Oversight and Accountability Committee).

¹⁸ *See supra* note 3.

¹⁹ *See supra* note 17.

²⁰ *Id.*

²¹ *Id.*

²² Department of Management Services, Premium Rate Table, Effective Jan. 2017 for Feb. 2017 coverage, available at http://mybenefits.myflorida.com/content/download/130052/808071/DSGI_-_Premium_Table_Effective_January_2017_for_February_2017_Coverage.pdf (last visited on April 20, 2017).

Subscriber Type	Tier or Coverage Type	Standard Plans (PPO and HMO)			Health Investor Plans (PPO and HMO)		
		Employer	Employee	Total	Employer*	Employee	Total
Career Service/ OPS	Single	\$624.84	\$50.00	\$692.84	\$624.84	\$15.00	\$657.84
	Family	\$1,379.60	\$180.00	\$1,559.60	\$1,379.60	\$64.30	\$1,443.90
	Spouse ²³	\$1,529.60	\$30.00	\$1,559.60	\$1,413.92	\$30.00	\$1,443.92
SES/ SMS/ Others	Single	\$684.50	\$8.34	\$692.84	\$649.50	\$8.34	\$657.84
	Family	\$1,529.60	\$30.00	\$1,559.60	\$1,413.90	\$30.00	\$1,443.90

*Includes employer tax-free Health Savings Account (HSA) contribution - \$41.66 and \$83.33 per month (\$500 and \$1,000 annually) for single and family coverage, respectively.

Cadillac Tax

Section 9001 of the Affordable Care Act specifies an excise tax (“Cadillac Tax”) on high cost employer-sponsored health coverage. Beginning with taxable year 2020, the tax will be equal to 40 percent of the amount considered to be an “excess benefit,” which is defined as the difference between the cost of health benefits and an applicable annual limitation threshold set by the federal legislation, with allowable health cost adjustments to the threshold. If the total cost of health benefits (not premium, but actual cost) for any plans exceed the federal thresholds, the state will be required to pay this tax for each employee enrolled in those plans.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., regarding the state group insurance program.

The term “plan year” is defined as a calendar year.

This section expands the scope of the state group insurance program to include other benefits authorized by law.

For plan year 2020 and thereafter, the state will make a defined contribution for each employee toward the cost of purchasing a health plan. If the state’s contribution is more than the premium cost of the health plan selected by the employee, subject to any federal limitation, the bill provides that the employee may elect to have the balance:

- Credited to the employee’s FSA;
- Credited to the employee’s HSA;
- Used to purchase additional benefits offered through the state group insurance program; or
- Used to increase the employee’s salary.

²³ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

For the 2020 plan year and each plan year thereafter, health plans must be offered in the following benefit levels:

- Platinum level, which shall have an actuarial value of at least 90 percent.
- Gold level, which shall have an actuarial value of at least 80 percent.
- Silver level, which shall have an actuarial value of at least 70 percent.
- Bronze level, which shall have an actuarial value of at least 60 percent.

In consultation with the independent benefits consultant described in s. 110.12304, F.S., the DMS must develop a plan for implementation of the benefit levels described above. The plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, and include recommendations for:

- Employer and employee contribution policies;
- Steps necessary for maintaining or improving total employee compensation levels when the transition is initiated; and
- An education strategy to inform employees of the additional choices available in the state group insurance program.

Section 2 creates s. 110.12303, F.S.

Beginning with the 2018 plan year, this section allows the DMS to offer the following products and services, in addition to the comprehensive package of health insurance and other benefits required or authorized to be included in the state group insurance program:

- Prepaid limited health service organizations authorized pursuant to part I of chapter 636, F.S.;
- Discount medical plan organizations authorized pursuant to part II of chapter 636, F.S.;
- Prepaid health clinics licensed under part II of chapter 641, F.S.;
- Licensed health care providers, including hospitals and other health facilities, health care clinics, and health professionals, who sell service contracts and arrangements for a specified amount and type of health services;
- Provider organizations, including service networks, group practices, professional associations, and other incorporated organizations of providers, who sell service contracts and arrangements for a specified amount and type of health services;
- Entities that provide specific health services in accordance with applicable state law and sell service contracts and arrangements for a specified amount and type of health services;
- Entities that provide health services or treatments through a bidding process;
- Entities that provide health services or treatments through the bundling or aggregating of health services or treatments; and
- Entities that provide other innovative and cost-effective health service delivery methods.

Next, the DMS is required to contract with at least one entity that provides comprehensive pricing and inclusive services for surgery and other medical procedures, which may be accessed at the option of the enrollee. The contract must require the entity to:

- Have procedures and evidence-based standards to ensure the inclusion of only high-quality health care providers;
- Provide assistance to enrollees in accessing and coordinating care;

- Provide cost savings to the state group insurance program to be shared with both the state and the enrollee. Cost savings payable to an enrollee may be:
 - Credited to the enrollee's flexible spending account;
 - Credited to the enrollee's health savings account;
 - Credited to the enrollee's health reimbursement account; or
 - Paid as additional health plan reimbursements not exceeding the amount of the employee's out-of-pocket medical expenses; and
- Provide an educational campaign for enrollees to learn about the services offered by the entity.

The DMS is required to report on or before January 15 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the any contracts described in this subsection.

Additionally, the DMS must contract with an entity that provides enrollees with online information on the cost and quality of health care services and providers, allows an enrollee to shop for health care services and providers, and rewards the enrollee by sharing any savings generated by the enrollee's choice of services or providers. The contract requires the entity to:

- Establish an Internet-based, consumer-friendly platform that educates and informs enrollees about the price and quality of health care services and providers, including the average amount paid in each county for health care services and providers. The average amounts paid for such services and providers may be expressed for service bundles, which include all products and services associated with a particular treatment or episode of care, or for separate and distinct products and services;
- Allow enrollees to shop for health care services and providers using the price and quality information provided on the Internet-based platform;
- Permit a certified bargaining agent of state employees to provide educational materials and counseling to enrollees regarding the Internet-based platform;
- Identify the savings realized to the enrollee and state if the enrollee chooses high-quality, lower-cost health care services or providers, and facilitate a shared savings payment to the enrollee. The amount of shared savings shall be determined by a methodology approved by the DMS and shall maximize value-based purchasing by enrollees. The amount payable to the enrollee may be:
 - Credited to the enrollee's FSA;
 - Credited to the enrollee's HSA;
 - Credited to the enrollee's health reimbursement account; or
 - Paid as additional health plan reimbursements not exceeding the amount of the enrollee's out-of-pocket medical expenses.

Furthermore, the DMS is required to report on or before January 1 of 2019, 2020, and 2021, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level, amount paid to enrollees, and cost-savings to both the enrollees and the state resulting from implementation of this subsection.

Section 3 creates s. 110.12304, F.S., requiring the DMS to competitively procure an independent benefits consultant.

The independent benefits consultant may not:

- Be owned or controlled by an HMO or insurer;
- Have an ownership interest in an HMO or insurer; or
- Have a direct or indirect financial interest in an HMO or insurer.

The independent benefits consultant must have substantial experience in consultation and design of employee benefit programs for large and public employers, including plans that qualify as cafeteria plans pursuant to s. 125 of the Internal Revenue Code of 1986.

The independent benefits consultant must:

- Provide an ongoing assessment of trends in benefits and employer-sponsored insurance that affect the state group insurance program;
- Conduct a comprehensive analysis of the state group insurance program, including available benefits, coverage options, and claims experience;
- Identify and establish appropriate adjustment procedures necessary to respond to any risk segmentation that may occur when increased choices are offered to employees;
- Assist the DMS with the submission of any necessary plan revisions for federal review;
- Assist the DMS in ensuring compliance with applicable federal and state regulations;
- Assist the DMS in monitoring the adequacy of funding and reserves for the state self-insured plan; and
- Assist the DMS in preparing recommendations for any modifications to the state group insurance program which shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year.

Section 4 creates an unnumbered section of law authorizing the DMS to determine and recommend premiums for enrollees that reflect the actual differences in costs to the state group insurance program for each HMO and the PPO plan options offered in the state group insurance program for both self-insured and fully insured plans. The premium alternatives for the plan options must reflect the costs to the state group insurance program for both medical and prescription drug benefits.

By July 1, 2017, the DMS must submit the proposed enrollee premium rates for the 2018 plan year to the Legislative Budget Commission (LBC) for review and approval. If the LBC does not approve the proposed rates, the rates established in the 2017-2018 General Appropriations Act will apply. The premium rates for employers shall be the same as those established for the state group insurance program in the General Appropriations Act for the 2017-2018 fiscal year.

Section 5 appropriates \$151,216 in recurring funds and \$507,546 in nonrecurring funds from the State Employees Health Insurance Trust Fund to DMS and authorizes 2 full-time equivalent positions and \$120,000 of associated salary rate for the 2016-2017 fiscal year to implement the act.

The recurring funds appropriated shall be allocated to specified appropriation categories within the Insurance Benefits Administration Program, as follows:

- \$150,528 in Salaries and Benefits; and

- \$688 in Special Categories Transfer to DMS-Human Resources Purchased per Statewide Contract.

The recurring funds appropriated shall be allocated to specified appropriation categories, as follows:

- \$500,000 in Special Categories Contracted Services; and
- \$7,546 in Expenses.

Section 6 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties or municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue or reduce the percentage of state tax shared with counties or municipalities.

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:

Indeterminate.

C. Government Sector Impact:

This bill provides funding as follows for Fiscal Year 2016-2017:

- \$151,216 in recurring funds from the State Employees' Health Insurance Trust Fund;
- \$507,546 in non-recurring funds from the State Employees' Health Insurance Trust Fund; and
- Two FTEs with \$120,000 in associated salary rate.

The state's personnel system, People First, would have to be customized to accommodate the changes as described in the bill. These changes would require an overhaul of the front-end election process to support the various breakouts described in the bill and to ensure subscribers elect sufficient coverage to meet the federal minimum coverage

requirements; would require a redesign of the electronic benefits and confirmation statements; and would require all insurance and payroll related interface files, payment detail files and reports to be updated and thoroughly tested with the insurance providers, state agencies and the employers' payroll systems. These subsidiary systems would also have to be updated to accept these changes. The fiscal impact associated with making these changes has not been determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 112.0801(1), F.S., requires public employers to offer to retirees the same health and hospitalization coverage as is offered to employees at a premium cost of no more than the premium cost applicable to active employees. However, s. 110.123(4)(e), F.S., states that no state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. Accordingly, it appears that retirees would have access to the various coverages and plans offered as part of the state group insurance program, but would not be able to receive contributions to FSAs, HSAs, or other reimbursements for health care costs.

VIII. Statutes Affected:

This bill substantially amends section 110.123 of the Florida Statutes.

This bill creates sections 110.12303 and 110.12304 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

Barcode 691160 by Governmental Oversight and Accountability on April 24, 2017:

- Defines the term “actuarial value”, and requires it to be calculated in accordance with the federal guidelines used in healthcare exchanges.

Barcode 611870 by Governmental Oversight and Accountability on April 24, 2017:

- Requires that plans or coverages offered by the Division of State Group Insurance to be consistent with the provisions of s. 125 of the Internal Revenue Code regarding cafeteria plans.

Barcode 919800 by Governmental Oversight and Accountability on April 24, 2017:

- Same as above, but made in different section of the bill.

Barcode 612856 by Governmental Oversight and Accountability on April 24, 2017:

- Makes technical edit changing “coverage level” to “benefit level”.

Barcode 969732 by Governmental Oversight and Accountability on April 24, 2017:

- Includes an actuarial study of the trends, savings, and costs over the next 15 years associated with the implantation of the benefit levels for employers and enrollees with the implementation plan (for the metals) due January 1, 2019;
- Requires that recommendations for implementation include steps necessary for maintaining or improving total employee compensation levels; and
- Changes the term “employee” to “enrollee” regarding recommended contributions since the plans are required to be offered to retirees.

Barcode 964332 by Governmental Oversight and Accountability on April 24, 2017:

- Requires costs savings realized by using bundled services be shared equally between the state and the enrollee.

Barcode 538286 by Governmental Oversight and Accountability on April 24, 2017:

- Changes due date for report on the participation level and cost-savings of new programs from January 1 to April 1; and
- Changes due date for report on the online portal from January 1 to April 1 of every year.

Barcode 203288 by Governmental Oversight and Accountability on April 24, 2017:

- Requires the Legislative Budget Commission to approve premium rates no later than August 1, 2017.



691160

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 162 and 163
insert:

(q) "Actuarial value" means the percentage paid by a health
plan of the percentage of the total allowed costs of benefits
which is calculated in accordance with 45 C.F.R. s. 156.135.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



691160

11 Delete line 4
12 and insert:
13 certain definitions; defining the terms "plan year"
14 and "actuarial value";



611870

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 178 - 179
and insert:
other benefits authorized by law that are consistent with the
provisions of s. 125 of the Internal Revenue Code ~~this section.~~



612856

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 263
and insert:
benefit level, and coverage tier selected by the enrollee and



969732

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 403 - 407
and insert:
House of Representatives by January 1, 2019, and must include an
actuarial study of the trends, costs, and savings over the next
15 years which are associated with the implementation of the
benefit levels for employers and enrollees. The plan must also
include recommendations for:

1. Employer and enrollee contribution policies.



969732

11 2. Steps necessary for maintaining or improving total
12 employee compensation levels.



919800

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 421
and insert:
benefits may also include products and services consistent with
the provisions of s. 125 of the Internal Revenue Code which are
offered by:



964332

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 458
and insert:
program to be shared equally with both the state and the
enrollee. Cost



538286

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 469 - 511

and insert:

(b) On or before April 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the contract or contracts described in this subsection.



538286

11 (3) The department shall contract with an entity that
12 provides enrollees with online information on the cost and
13 quality of health care services and providers, allows an
14 enrollee to shop for health care services and providers, and
15 rewards the enrollee by sharing savings generated by the
16 enrollee's choice of services or providers. The contract shall
17 require the entity to:

18 (a) Establish an Internet-based, consumer-friendly platform
19 that educates and informs enrollees about the price and quality
20 of health care services and providers, including the average
21 amount paid in each county for health care services and
22 providers. The average amounts paid for such services and
23 providers may be expressed for service bundles, which include
24 all products and services associated with a particular treatment
25 or episode of care, or for separate and distinct products and
26 services.

27 (b) Allow enrollees to shop for health care services and
28 providers using the price and quality information provided on
29 the Internet-based platform.

30 (c) Permit a certified bargaining agent of state employees
31 to provide educational materials and counseling to enrollees
32 regarding the Internet-based platform.

33 (d) Identify the savings realized to the enrollee and state
34 if the enrollee chooses high-quality, lower-cost health care
35 services or providers, and facilitate a shared savings payment
36 to the enrollee. The amount of shared savings shall be
37 determined by a methodology approved by the department and shall
38 maximize value-based purchasing by enrollees. The amount payable
39 to the enrollee may be:



538286

- 40 1. Credited to the enrollee's flexible spending account;
41 2. Credited to the enrollee's health savings account;
42 3. Credited to the enrollee's health reimbursement account;
43 or
44 4. Paid as additional health plan reimbursements not
45 exceeding the amount of the enrollee's out-of-pocket medical
46 expenses.
47 (e) On or before April 1 of each year, the



203288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 566
and insert:
approval. The Legislative Budget Commission shall consider the
proposed rates for review and approval by no later than August
1, 2017. If the Legislative Budget Commission does not approve

1 A bill to be entitled
 2 An act relating to state group insurance program;
 3 amending s. 110.123, F.S.; revising applicability of
 4 certain definitions; defining the term "plan year";
 5 authorizing the state insurance program to include
 6 additional benefits; authorizing an employee to use a
 7 specified portion of the state's contribution to
 8 purchase additional program benefits and supplemental
 9 benefits under certain circumstances; providing for
 10 the program to offer health plans in specified benefit
 11 levels; requiring the Department of Management
 12 Services to develop a plan for implementation of the
 13 benefit levels; providing reporting requirements;
 14 providing for expiration of the implementation plan;
 15 creating s. 110.12303, F.S.; authorizing additional
 16 benefits to be included in the program; requiring the
 17 department to contract with at least one entity that
 18 provides comprehensive pricing and inclusive services
 19 for surgery and other medical procedures; providing
 20 contract and reporting requirements; requiring the
 21 department to contract with an entity to provide
 22 enrollees with online information on health care
 23 services and providers; providing contract and
 24 reporting requirements; creating s. 110.12304, F.S.;
 25 directing the department to contract with an

26 independent benefits consultant; providing
 27 qualifications and duties of the independent benefits
 28 consultant; providing reporting requirements;
 29 providing that the department shall determine and
 30 recommend premiums for enrollees for the 2018 plan
 31 year; providing requirements for the determination of
 32 premiums; requiring the department to submit premium
 33 rates to the Legislative Budget Commission by a
 34 specified date for review and approval; requiring
 35 premium rates to be consistent with the total budgeted
 36 amount for the program in the General Appropriations
 37 Act for the 2017-2018 fiscal year; providing an
 38 appropriation and authorizing positions; providing an
 39 effective date.
 40

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

42
 43 Section 1. Subsection (2) and paragraphs (b), (f), (h),
 44 and (j) of subsection (3) of section 110.123, Florida Statutes,
 45 are amended, and paragraph (k) is added to subsection (3) of
 46 that section, to read:

47 110.123 State group insurance program.—

48 (2) DEFINITIONS.—As used in ss. 110.123-110.1239 ~~this~~
 49 ~~section~~, the term:

50 (a) "Department" means the Department of Management

51 Services.

52 (b) "Enrollee" means all state officers and employees,
53 retired state officers and employees, surviving spouses of
54 deceased state officers and employees, and terminated employees
55 or individuals with continuation coverage who are enrolled in an
56 insurance plan offered by the state group insurance program.

57 "Enrollee" includes all state university officers and employees,
58 retired state university officers and employees, surviving
59 spouses of deceased state university officers and employees, and
60 terminated state university employees or individuals with
61 continuation coverage who are enrolled in an insurance plan
62 offered by the state group insurance program.

63 (c) "Full-time state employees" means employees of all
64 branches or agencies of state government holding salaried
65 positions who are paid by state warrant or from agency funds and
66 who work or are expected to work an average of at least 30 or
67 more hours per week; employees paid from regular salary
68 appropriations for 8 months' employment, including university
69 personnel on academic contracts; and employees paid from other-
70 personal-services (OPS) funds as described in subparagraphs 1.
71 and 2. The term includes all full-time employees of the state
72 universities. The term does not include seasonal workers who are
73 paid from OPS funds.

74 1. For persons hired before April 1, 2013, the term
75 includes any person paid from OPS funds who:

76 a. Has worked an average of at least 30 hours or more per
77 week during the initial measurement period from April 1, 2013,
78 through September 30, 2013; or

79 b. Has worked an average of at least 30 hours or more per
80 week during a subsequent measurement period.

81 2. For persons hired after April 1, 2013, the term
82 includes any person paid from OPS funds who:

83 a. Is reasonably expected to work an average of at least
84 30 hours or more per week; or

85 b. Has worked an average of at least 30 hours or more per
86 week during the person's measurement period.

87 (d) "Health maintenance organization" or "HMO" means an
88 entity certified under part I of chapter 641.

89 (e) "Health plan member" means any person participating in
90 a state group health insurance plan, a TRICARE supplemental
91 insurance plan, or a health maintenance organization plan under
92 the state group insurance program, including enrollees and
93 covered dependents thereof.

94 (f) "Part-time state employee" means an employee of any
95 branch or agency of state government paid by state warrant from
96 salary appropriations or from agency funds, and who is employed
97 for less than an average of 30 hours per week or, if on academic
98 contract or seasonal or other type of employment which is less
99 than year-round, is employed for less than 8 months during any
100 12-month period, but does not include a person paid from other-

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101 personal-services (OPS) funds. The term includes all part-time
102 employees of the state universities.

103 (g) "Plan year" means a calendar year.

104 (h)~~(g)~~ "Retired state officer or employee" or "retiree"
105 means any state or state university officer or employee who
106 retires under a state retirement system or a state optional
107 annuity or retirement program or is placed on disability
108 retirement, and who was insured under the state group insurance
109 program at the time of retirement, and who begins receiving
110 retirement benefits immediately after retirement from state or
111 state university office or employment. The term also includes
112 any state officer or state employee who retires under the
113 Florida Retirement System Investment Plan established under part
114 II of chapter 121 if he or she:

115 1. Meets the age and service requirements to qualify for
116 normal retirement as set forth in s. 121.021(29); or

117 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
118 the Internal Revenue Code and has 6 years of creditable service.

119 (i)~~(h)~~ "State agency" or "agency" means any branch,
120 department, or agency of state government. "State agency" or
121 "agency" includes any state university for purposes of this
122 section only.

123 (j)~~(i)~~ "Seasonal workers" has the same meaning as provided
124 under 29 C.F.R. s. 500.20(s)(1).

125 (k)~~(j)~~ "State group health insurance plan or plans" or

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126 "state plan or plans" mean the state self-insured health
127 insurance plan or plans offered to state officers and employees,
128 retired state officers and employees, and surviving spouses of
129 deceased state officers and employees pursuant to this section.

130 (l)~~(k)~~ "State-contracted HMO" means any health maintenance
131 organization under contract with the department to participate
132 in the state group insurance program.

133 (m)~~(l)~~ "State group insurance program" or "programs" means
134 the package of insurance plans offered to state officers and
135 employees, retired state officers and employees, and surviving
136 spouses of deceased state officers and employees pursuant to
137 this section, including the state group health insurance plan or
138 plans, health maintenance organization plans, TRICARE
139 supplemental insurance plans, and other plans required or
140 authorized by law.

141 (n)~~(m)~~ "State officer" means any constitutional state
142 officer, any elected state officer paid by state warrant, or any
143 appointed state officer who is commissioned by the Governor and
144 who is paid by state warrant.

145 (o)~~(n)~~ "Surviving spouse" means the widow or widower of a
146 deceased state officer, full-time state employee, part-time
147 state employee, or retiree if such widow or widower was covered
148 as a dependent under the state group health insurance plan, a
149 TRICARE supplemental insurance plan, or a health maintenance
150 organization plan established pursuant to this section at the

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151 time of the death of the deceased officer, employee, or retiree.
 152 "Surviving spouse" also means any widow or widower who is
 153 receiving or eligible to receive a monthly state warrant from a
 154 state retirement system as the beneficiary of a state officer,
 155 full-time state employee, or retiree who died prior to July 1,
 156 1979. For the purposes of this section, any such widow or
 157 widower shall cease to be a surviving spouse upon his or her
 158 remarriage.

159 (p) ~~(e)~~ "TRICARE supplemental insurance plan" means the
 160 Department of Defense Health Insurance Program for eligible
 161 members of the uniformed services authorized by 10 U.S.C. s.
 162 1097.

163 (3) STATE GROUP INSURANCE PROGRAM.—

164 (b) It is the intent of the Legislature to offer a
 165 comprehensive package of health insurance and retirement
 166 benefits and a personnel system for state employees which are
 167 provided in a cost-efficient and prudent manner, and to allow
 168 state employees the option to choose benefit plans which best
 169 suit their individual needs. ~~Therefore,~~ The state group
 170 insurance program ~~is established which~~ may include the state
 171 group health insurance plan or plans, health maintenance
 172 organization plans, group life insurance plans, TRICARE
 173 supplemental insurance plans, group accidental death and
 174 dismemberment plans, ~~and~~ group disability insurance plans, ~~—~~
 175 ~~Furthermore, the department is additionally authorized to~~

176 ~~establish and provide as part of the state group insurance~~
 177 ~~program any other group insurance plans or coverage choices, and~~
 178 ~~other benefits authorized by law that are consistent with the~~
 179 ~~provisions of this section.~~

180 (f) Except as provided for in subparagraph (h)2., the
 181 state contribution toward the cost of any plan in the state
 182 group insurance program shall be uniform with respect to all
 183 state employees in a state collective bargaining unit
 184 participating in the same coverage tier in the same plan. This
 185 section does not prohibit the development of separate benefit
 186 plans for officers and employees exempt from the career service
 187 or the development of separate benefit plans for each collective
 188 bargaining unit. For the 2020 plan year and each plan year
 189 thereafter, if the state's contribution is more than the premium
 190 cost of the health plan selected by the employee, subject to
 191 federal limitation, the employee may elect to have the balance:

- 192 1. Credited to the employee's flexible spending account;
- 193 2. Credited to the employee's health savings account;
- 194 3. Used to purchase additional benefits offered through
 195 the state group insurance program; or
- 196 4. Used to increase the employee's salary.

197 (h)1. A person eligible to participate in the state group
 198 insurance program may be authorized by rules adopted by the
 199 department, in lieu of participating in the state group health
 200 insurance plan, to exercise an option to elect membership in a

201 health maintenance organization plan which is under contract
 202 with the state in accordance with criteria established by this
 203 section and by said rules. The offer of optional membership in a
 204 health maintenance organization plan permitted by this paragraph
 205 may be limited or conditioned by rule as may be necessary to
 206 meet the requirements of state and federal laws.

207 2. The department shall contract with health maintenance
 208 organizations seeking to participate in the state group
 209 insurance program through a request for proposal or other
 210 procurement process, as developed by the Department of
 211 Management Services and determined to be appropriate.

212 a. The department shall establish a schedule of minimum
 213 benefits for health maintenance organization coverage, and that
 214 schedule shall include: physician services; inpatient and
 215 outpatient hospital services; emergency medical services,
 216 including out-of-area emergency coverage; diagnostic laboratory
 217 and diagnostic and therapeutic radiologic services; mental
 218 health, alcohol, and chemical dependency treatment services
 219 meeting the minimum requirements of state and federal law;
 220 skilled nursing facilities and services; prescription drugs;
 221 age-based and gender-based wellness benefits; and other benefits
 222 as may be required by the department. Additional services may be
 223 provided subject to the contract between the department and the
 224 HMO. As used in this paragraph, the term "age-based and gender-
 225 based wellness benefits" includes aerobic exercise, education in

226 alcohol and substance abuse prevention, blood cholesterol
 227 screening, health risk appraisals, blood pressure screening and
 228 education, nutrition education, program planning, safety belt
 229 education, smoking cessation, stress management, weight
 230 management, and women's health education.

231 b. The department may establish uniform deductibles,
 232 copayments, coverage tiers, or coinsurance schedules for all
 233 participating HMO plans.

234 c. The department may require detailed information from
 235 each health maintenance organization participating in the
 236 procurement process, including information pertaining to
 237 organizational status, experience in providing prepaid health
 238 benefits, accessibility of services, financial stability of the
 239 plan, quality of management services, accreditation status,
 240 quality of medical services, network access and adequacy,
 241 performance measurement, ability to meet the department's
 242 reporting requirements, and the actuarial basis of the proposed
 243 rates and other data determined by the director to be necessary
 244 for the evaluation and selection of health maintenance
 245 organization plans and negotiation of appropriate rates for
 246 these plans. Upon receipt of proposals by health maintenance
 247 organization plans and the evaluation of those proposals, the
 248 department may enter into negotiations with all of the plans or
 249 a subset of the plans, as the department determines appropriate.
 250 Nothing shall preclude the department from negotiating regional

251 or statewide contracts with health maintenance organization
 252 plans when this is cost-effective and when the department
 253 determines that the plan offers high value to enrollees.

254 d. The department may limit the number of HMOs that it
 255 contracts with in each service area based on the nature of the
 256 bids the department receives, the number of state employees in
 257 the service area, or any unique geographical characteristics of
 258 the service area. The department shall establish by rule service
 259 areas throughout the state.

260 e. All persons participating in the state group insurance
 261 program may be required to contribute towards a total state
 262 group health premium that may vary depending upon the plan,
 263 coverage level, and coverage tier selected by the enrollee and
 264 the level of state contribution authorized by the Legislature.

265 3. The department is authorized to negotiate and to
 266 contract with specialty psychiatric hospitals for mental health
 267 benefits, on a regional basis, for alcohol, drug abuse, and
 268 mental and nervous disorders. The department may establish,
 269 subject to the approval of the Legislature pursuant to
 270 subsection (5), any such regional plan upon completion of an
 271 actuarial study to determine any impact on plan benefits and
 272 premiums.

273 4. In addition to contracting pursuant to subparagraph 2.,
 274 the department may enter into contract with any HMO to
 275 participate in the state group insurance program which:

276 a. Serves greater than 5,000 recipients on a prepaid basis
 277 under the Medicaid program;

278 b. Does not currently meet the 25-percent non-
 279 Medicare/non-Medicaid enrollment composition requirement
 280 established by the Department of Health excluding participants
 281 enrolled in the state group insurance program;

282 c. Meets the minimum benefit package and copayments and
 283 deductibles contained in sub-subparagraphs 2.a. and b.;

284 d. Is willing to participate in the state group insurance
 285 program at a cost of premiums that is not greater than 95
 286 percent of the cost of HMO premiums accepted by the department
 287 in each service area; and

288 e. Meets the minimum surplus requirements of s. 641.225.

289
 290 The department is authorized to contract with HMOs that meet the
 291 requirements of sub-subparagraphs a.-d. prior to the open
 292 enrollment period for state employees. The department is not
 293 required to renew the contract with the HMOs as set forth in
 294 this paragraph more than twice. Thereafter, the HMOs shall be
 295 eligible to participate in the state group insurance program
 296 only through the request for proposal or invitation to negotiate
 297 process described in subparagraph 2.

298 5. All enrollees in a state group health insurance plan, a
 299 TRICARE supplemental insurance plan, or any health maintenance
 300 organization plan have the option of changing to any other

301 health plan that is offered by the state within any open
 302 enrollment period designated by the department. Open enrollment
 303 shall be held at least once each calendar year.

304 6. When a contract between a treating provider and the
 305 state-contracted health maintenance organization is terminated
 306 for any reason other than for cause, each party shall allow any
 307 enrollee for whom treatment was active to continue coverage and
 308 care when medically necessary, through completion of treatment
 309 of a condition for which the enrollee was receiving care at the
 310 time of the termination, until the enrollee selects another
 311 treating provider, or until the next open enrollment period
 312 offered, whichever is longer, but no longer than 6 months after
 313 termination of the contract. Each party to the terminated
 314 contract shall allow an enrollee who has initiated a course of
 315 prenatal care, regardless of the trimester in which care was
 316 initiated, to continue care and coverage until completion of
 317 postpartum care. This does not prevent a provider from refusing
 318 to continue to provide care to an enrollee who is abusive,
 319 noncompliant, or in arrears in payments for services provided.
 320 For care continued under this subparagraph, the program and the
 321 provider shall continue to be bound by the terms of the
 322 terminated contract. Changes made within 30 days before
 323 termination of a contract are effective only if agreed to by
 324 both parties.

325 7. Any HMO participating in the state group insurance

326 program shall submit health care utilization and cost data to
 327 the department, in such form and in such manner as the
 328 department shall require, as a condition of participating in the
 329 program. The department shall enter into negotiations with its
 330 contracting HMOs to determine the nature and scope of the data
 331 submission and the final requirements, format, penalties
 332 associated with noncompliance, and timetables for submission.
 333 These determinations shall be adopted by rule.

334 8. The department may establish and direct, with respect
 335 to collective bargaining issues, a comprehensive package of
 336 insurance benefits that may include supplemental health and life
 337 coverage, dental care, long-term care, vision care, and other
 338 benefits it determines necessary to enable state employees to
 339 select from among benefit options that best suit their
 340 individual and family needs. Beginning with the 2018 plan year,
 341 the package of benefits may also include products and services
 342 described in s. 110.12303.

343 a. Based upon a desired benefit package, the department
 344 shall issue a request for proposal or invitation to negotiate
 345 for ~~health insurance~~ providers interested in participating in
 346 the state group insurance program, and the department shall
 347 issue a request for proposal or invitation to negotiate for
 348 ~~insurance~~ providers interested in participating in the non-
 349 health-related components of the state group insurance program.
 350 Upon receipt of all proposals, the department may enter into

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351 contract negotiations with ~~insurance~~ providers submitting bids
 352 or negotiate a specially designed benefit package. ~~Insurance~~
 353 Providers offering or providing supplemental coverage as of May
 354 30, 1991, which qualify for pretax benefit treatment pursuant to
 355 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
 356 state employees currently enrolled may be included by the
 357 department in the supplemental insurance benefit plan
 358 established by the department without participating in a request
 359 for proposal, submitting bids, negotiating contracts, or
 360 negotiating a specially designed benefit package. These
 361 contracts shall provide state employees with the most cost-
 362 effective and comprehensive coverage available; however, except
 363 as provided in subparagraph (f)3., no state or agency funds
 364 shall be contributed toward the cost of any part of the premium
 365 of such supplemental benefit plans. With respect to dental
 366 coverage, the division shall include in any solicitation or
 367 contract for any state group dental program made after July 1,
 368 2001, a comprehensive indemnity dental plan option which offers
 369 enrollees a completely unrestricted choice of dentists. If a
 370 dental plan is endorsed, or in some manner recognized as the
 371 preferred product, such plan shall include a comprehensive
 372 indemnity dental plan option which provides enrollees with a
 373 completely unrestricted choice of dentists.
 374 b. Pursuant to the applicable provisions of s. 110.161,
 375 and s. 125 of the Internal Revenue Code of 1986, the department

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376 shall enroll in the pretax benefit program those state employees
 377 who voluntarily elect coverage in any of the supplemental
 378 insurance benefit plans as provided by sub-subparagraph a.
 379 c. Nothing herein contained shall be construed to prohibit
 380 insurance providers from continuing to provide or offer
 381 supplemental benefit coverage to state employees as provided
 382 under existing agency plans.
 383 (j) For the 2020 plan year and each plan year thereafter,
 384 health plans shall be offered in the following benefit levels:
 385 1. Platinum level, which shall have an actuarial value of
 386 at least 90 percent.
 387 2. Gold level, which shall have an actuarial value of at
 388 least 80 percent.
 389 3. Silver level, which shall have an actuarial value of at
 390 least 70 percent.
 391 4. Bronze level, which shall have an actuarial value of at
 392 least 60 percent ~~Notwithstanding paragraph (f) requiring uniform~~
 393 ~~contributions, and for the 2011-2012 fiscal year only, the state~~
 394 ~~contribution toward the cost of any plan in the state group~~
 395 ~~insurance plan is the difference between the overall premium and~~
 396 ~~the employee contribution. This subsection expires June 30,~~
 397 ~~2012.~~
 398 (k) In consultation with the independent benefits
 399 consultant described in s. 110.12304, the department shall
 400 develop a plan for implementation of the benefit levels

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401 described in paragraph (j). The plan shall be submitted to the
 402 Governor, the President of the Senate, and the Speaker of the
 403 House of Representatives by January 1, 2019, and include
 404 recommendations for:

- 405 1. Employer and employee contribution policies.
 406 2. Steps necessary for maintaining or improving total
 407 employee compensation levels when the transition is initiated.
 408 3. An education strategy to inform employees of the
 409 additional choices available in the state group insurance
 410 program.

412 This paragraph expires July 1, 2019.

413 Section 2. Section 110.12303, Florida Statutes, is created
 414 to read:

415 110.12303 State group insurance program; additional
 416 benefits; price transparency program; reporting.—Beginning with
 417 the 2018 plan year:

418 (1) In addition to the comprehensive package of health
 419 insurance and other benefits required or authorized to be
 420 included in the state group insurance program, the package of
 421 benefits may also include products and services offered by:

422 (a) Prepaid limited health service organizations
 423 authorized pursuant to part I of chapter 636.

424 (b) Discount medical plan organizations authorized
 425 pursuant to part II of chapter 636.

426 (c) Prepaid health clinics licensed under part II of
 427 chapter 641.

428 (d) Licensed health care providers, including hospitals
 429 and other health care facilities, health care clinics, and
 430 health professionals, who sell service contracts and
 431 arrangements for a specified amount and type of health services.

432 (e) Provider organizations, including service networks,
 433 group practices, professional associations, and other
 434 incorporated organizations of providers, who sell service
 435 contracts and arrangements for a specified amount and type of
 436 health services.

437 (f) Entities that provide specific health services in
 438 accordance with applicable state law and sell service contracts
 439 and arrangements for a specified amount and type of health
 440 services.

441 (g) Entities that provide health services or treatments
 442 through a bidding process.

443 (h) Entities that provide health services or treatments
 444 through the bundling or aggregating of health services or
 445 treatments.

446 (i) Entities that provide other innovative and cost-
 447 effective health service delivery methods.

448 (2) (a) The department shall contract with at least one
 449 entity that provides comprehensive pricing and inclusive
 450 services for surgery and other medical procedures which may be

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451 accessed at the option of the enrollee. The contract shall
 452 require the entity to:

453 1. Have procedures and evidence-based standards to ensure
 454 the inclusion of only high-quality health care providers.

455 2. Provide assistance to the enrollee in accessing and
 456 coordinating care.

457 3. Provide cost savings to the state group insurance
 458 program to be shared with both the state and the enrollee. Cost
 459 savings payable to an enrollee may be:

460 a. Credited to the enrollee's flexible spending account;
 461 b. Credited to the enrollee's health savings account;
 462 c. Credited to the enrollee's health reimbursement
 463 account; or

464 d. Paid as additional health plan reimbursements not
 465 exceeding the amount of the enrollee's out-of-pocket medical
 466 expenses.

467 4. Provide an educational campaign for enrollees to learn
 468 about the services offered by the entity.

469 (b) On or before January 15 of each year, the department
 470 shall report to the Governor, the President of the Senate, and
 471 the Speaker of the House of Representatives on the participation
 472 level and cost-savings to both the enrollee and the state
 473 resulting from the contract or contracts described in this
 474 subsection.

475 (3) The department shall contract with an entity that

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

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HB 7007

2017

476 provides enrollees with online information on the cost and
 477 quality of health care services and providers, allows an
 478 enrollee to shop for health care services and providers, and
 479 rewards the enrollee by sharing savings generated by the
 480 enrollee's choice of services or providers. The contract shall
 481 require the entity to:

482 (a) Establish an Internet-based, consumer-friendly
 483 platform that educates and informs enrollees about the price and
 484 quality of health care services and providers, including the
 485 average amount paid in each county for health care services and
 486 providers. The average amounts paid for such services and
 487 providers may be expressed for service bundles, which include
 488 all products and services associated with a particular treatment
 489 or episode of care, or for separate and distinct products and
 490 services.

491 (b) Allow enrollees to shop for health care services and
 492 providers using the price and quality information provided on
 493 the Internet-based platform.

494 (c) Permit a certified bargaining agent of state employees
 495 to provide educational materials and counseling to enrollees
 496 regarding the Internet-based platform.

497 (d) Identify the savings realized to the enrollee and
 498 state if the enrollee chooses high-quality, lower-cost health
 499 care services or providers, and facilitate a shared savings
 500 payment to the enrollee. The amount of shared savings shall be

Page 20 of 24

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

hb7007-00

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2017

501 determined by a methodology approved by the department and shall
 502 maximize value-based purchasing by enrollees. The amount payable
 503 to the enrollee may be:

504 1. Credited to the enrollee's flexible spending account;

505 2. Credited to the enrollee's health savings account;

506 3. Credited to the enrollee's health reimbursement
 507 account; or

508 4. Paid as additional health plan reimbursements not
 509 exceeding the amount of the enrollee's out-of-pocket medical
 510 expenses.

511 (e) On or before January 1 of 2019, 2020, and 2021, the
 512 department shall report to the Governor, the President of the
 513 Senate, and the Speaker of the House of Representatives on the
 514 participation level, amount paid to enrollees, and cost-savings
 515 to both the enrollees and the state resulting from the
 516 implementation of this subsection.

517 Section 3. Section 110.12304, Florida Statutes, is created
 518 to read:

519 110.12304 Independent benefits consultant.-

520 (1) The department shall competitively procure an
 521 independent benefits consultant.

522 (2) The independent benefits consultant may not:

523 (a) Be owned or controlled by a health maintenance
 524 organization or insurer.

525 (b) Have an ownership interest in a health maintenance

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hb7007-00

HB 7007

2017

526 organization or insurer.

527 (c) Have a direct or indirect financial interest in a
 528 health maintenance organization or insurer.

529 (3) The independent benefits consultant must have
 530 substantial experience in consultation and design of employee
 531 benefit programs for large employers and public employers,
 532 including experience with plans that qualify as cafeteria plans
 533 under s. 125 of the Internal Revenue Code of 1986.

534 (4) The independent benefits consultant shall:

535 (a) Provide an ongoing assessment of trends in benefits
 536 and employer-sponsored insurance that affect the state group
 537 insurance program.

538 (b) Conduct a comprehensive analysis of the state group
 539 insurance program, including available benefits, coverage
 540 options, and claims experience.

541 (c) Identify and establish appropriate adjustment
 542 procedures necessary to respond to any risk segmentation that
 543 may occur when increased choices are offered to employees.

544 (d) Assist the department with the submission of any
 545 necessary plan revisions for federal review.

546 (e) Assist the department in ensuring compliance with
 547 applicable federal and state regulations.

548 (f) Assist the department in monitoring the adequacy of
 549 funding and reserves for the state self-insured plan.

550 (g) Assist the department in preparing recommendations for

Page 22 of 24

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

hb7007-00

551 any modifications to the state group insurance program which
 552 shall be submitted to the Governor, the President of the Senate,
 553 and the Speaker of the House of Representatives by January 1 of
 554 each year.

555 Section 4. For the 2018 plan year, the Department of
 556 Management Services shall determine and recommend premiums for
 557 enrollees that reflect the actual differences in costs to the
 558 program for each of the health maintenance organization and the
 559 preferred provider organization plan options offered in the
 560 state group insurance program for both self-insured and fully
 561 insured plans. The premium alternatives for the plan options
 562 shall reflect the costs to the program for both medical and
 563 prescription drug benefits. By July 1, 2017, the department
 564 shall submit the proposed enrollee premium rates for the 2018
 565 plan year to the Legislative Budget Commission for review and
 566 approval. If the Legislative Budget Commission does not approve
 567 the proposed rates, the rates provided in the 2017-2018 General
 568 Appropriations Act shall apply. The premium rates for employers
 569 shall be the same as those established for the state group
 570 insurance program in the General Appropriations Act for the
 571 2017-2018 fiscal year.

572 Section 5. (1) For the 2017-2018 fiscal year, the sums of
 573 \$151,216 in recurring funds and \$507,546 in nonrecurring funds
 574 are appropriated from the State Employees Health Insurance Trust
 575 Fund to the Department of Management Services, and two full-time

576 equivalent positions and associated salary rate of 120,000 are
 577 authorized, for the purpose of implementing this act.

578 (2) (a) The recurring funds appropriated in this section
 579 shall be allocated to the following specific appropriation
 580 categories within the Insurance Benefits Administration Program:
 581 \$150,528 in Salaries and Benefits and \$688 in Special Categories
 582 Transfer to Department of Management Services-Human Resources
 583 Purchased per Statewide Contract.

584 (b) The nonrecurring funds appropriated in this section
 585 shall be allocated to the following specific appropriation
 586 categories: \$500,000 in Special Categories Contracted Services
 587 and \$7,546 in Expenses.

588 Section 6. This act shall take effect July 1, 2017.



691160

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 162 and 163
insert:

(q) "Actuarial value" means the percentage paid by a health
plan of the percentage of the total allowed costs of benefits
which is calculated in accordance with 45 C.F.R. s. 156.135.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



691160

11 Delete line 4
12 and insert:
13 certain definitions; defining the terms "plan year"
14 and "actuarial value";



612856

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
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	.	

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

Senate Amendment

Delete line 263
and insert:
benefit level, and coverage tier selected by the enrollee and



964332

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
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The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete line 458
and insert:
program to be shared equally with both the state and the
enrollee. Cost



538286

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 469 - 511

and insert:

(b) On or before April 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the contract or contracts described in this subsection.



538286

11 (3) The department shall contract with an entity that
12 provides enrollees with online information on the cost and
13 quality of health care services and providers, allows an
14 enrollee to shop for health care services and providers, and
15 rewards the enrollee by sharing savings generated by the
16 enrollee's choice of services or providers. The contract shall
17 require the entity to:

18 (a) Establish an Internet-based, consumer-friendly platform
19 that educates and informs enrollees about the price and quality
20 of health care services and providers, including the average
21 amount paid in each county for health care services and
22 providers. The average amounts paid for such services and
23 providers may be expressed for service bundles, which include
24 all products and services associated with a particular treatment
25 or episode of care, or for separate and distinct products and
26 services.

27 (b) Allow enrollees to shop for health care services and
28 providers using the price and quality information provided on
29 the Internet-based platform.

30 (c) Permit a certified bargaining agent of state employees
31 to provide educational materials and counseling to enrollees
32 regarding the Internet-based platform.

33 (d) Identify the savings realized to the enrollee and state
34 if the enrollee chooses high-quality, lower-cost health care
35 services or providers, and facilitate a shared savings payment
36 to the enrollee. The amount of shared savings shall be
37 determined by a methodology approved by the department and shall
38 maximize value-based purchasing by enrollees. The amount payable
39 to the enrollee may be:



538286

- 40 1. Credited to the enrollee's flexible spending account;
41 2. Credited to the enrollee's health savings account;
42 3. Credited to the enrollee's health reimbursement account;

43 or

- 44 4. Paid as additional health plan reimbursements not
45 exceeding the amount of the enrollee's out-of-pocket medical
46 expenses.

47 (e) On or before April 1 of each year, the



203288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 566
and insert:
approval. The Legislative Budget Commission shall consider the
proposed rates for review and approval by no later than August
1, 2017. If the Legislative Budget Commission does not approve



611870

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
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	.	

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

Senate Amendment

Delete lines 178 - 179
and insert:
other benefits authorized by law that are consistent with the
provisions of s. 125 of the Internal Revenue Code ~~this section.~~



969732

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
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	.	

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

Senate Amendment

Delete lines 403 - 407
and insert:
House of Representatives by January 1, 2019, and must include an
actuarial study of the trends, costs, and savings over the next
15 years which are associated with the implementation of the
benefit levels for employers and enrollees. The plan must also
include recommendations for:

1. Employer and enrollee contribution policies.



969732

11 2. Steps necessary for maintaining or improving total
12 employee compensation levels.



919800

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 421
and insert:
benefits may also include products and services consistent with
the provisions of s. 125 of the Internal Revenue Code which are
offered by:

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

7007
Bill Number (if applicable)

Topic State Group Health Insurance

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe

Phone 850-224-6926

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

AB 9007
\$900

Bill Number (if applicable)

Topic Group Health Bill

Amendment Barcode (if applicable)

Name Jacqui Carmona

Job Title Political Director

Address 3064 Highland Lakes Terrace

Phone 305 283 4558

Street

Tallahassee, FL

32301

Email Jacqui.Carmona@afscme.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AFSCME FL

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/24/2017
Meeting Date

7007
Bill Number (if applicable)

Topic State Group Insurance Program

Amendment Barcode (if applicable)

Name Matt Rickett Puckett

Job Title lobbyist

Address 300 East Brevard St.
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Police Benevolent Association

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

7007

Bill Number (if applicable)

Topic State Employee Health Insurance

Amendment Barcode (if applicable)

Name Marshall Gletree

Job Title Executive Director

Address 115 N. Calhoun St., Suite 6

Phone 850-224-2078

Street

Tallahassee FL 32301

City

State

Zip

Email marshall.gletree@floridahea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-24-17

Meeting Date

7007

Bill Number (if applicable)

Topic State Health Insurance

Amendment Barcode (if applicable)

Name Michael Buchler

Job Title Assoc. Professor

Address 2069 Wildridge Dr.
Street

Phone 850-562-2732

Tallahassee FL 32303
City State Zip

Email michael.buchler@
gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

7007

Bill Number (if applicable)

Topic State Group Health Insurance

Amendment Barcode (if applicable)

Name Dr Jennifer Proffitt

Job Title President, United Faculty of Florida

Address 115 N Calhoun St Ste 6

Phone 850 224 8220

Street

Tallahassee FL

State

32301

Zip

Email jennifer.proffitt@floridaea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

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 (10/14/14)

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 Committee on Governmental Oversight and Accountability

BILL: SPB 7030
INTRODUCER: Governmental Oversight and Accountability Committee
SUBJECT: Retirement
DATE: April 24, 2017 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Ferrin	Ferrin		GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7030 provides that any condition or impairment of the health of a firefighter employed full-time by a state or local government which is caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer and results in total or partial disability or death is presumed to have been accidental and to have been suffered "in the line of duty" unless the contrary is shown by competent evidence. In the line of duty retirement compensates an employee whose disability or death arises out of and in the actual performance of employment, and provides greater compensation to the firefighter or his or her dependents than would otherwise be available. Certain criteria must be met in order to meet the presumption.

The bill also makes the following changes to the Florida Retirement System (FRS):

- Allows for renewed membership in the investment plan or one of the optional annuity retirement plans for certain former participants of those plans;
- Expands the survivor benefit for investment plan members killed in the line of duty, including Special Risk Class, by making them retroactive to 2002;
- Closes the Senior Management Service Optional Annuity Program; and
- Changes the default from the pension plan to the investment plan for members of the FRS initially enrolled after January 1, 2018.

To cover the immediate costs of the proposed changes, the bill provides adjustments to the contribution rates that fund the FRS's normal costs and unfunded actuarial liability, and adjusts the rates for transferring funds to provide in line of duty death benefits for investment plan members.

The bill provides a legislative determination that the act fulfills an important state interest.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

Florida Retirement System

The FRS was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing three percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2016, the FRS had 630,350 active members, 394,907 annuitants, 16,248 disabled retirees, and 29,602 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2016, the FRS consisted of 1,029 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 193 cities and 270 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 545,680 active members, plus 3,709 in renewed membership;
- The Special Risk Class⁶ includes 70,695 active members;
- The Special Risk Administrative Support Class⁷ has 76 active members;
- The Elected Officers' Class⁸ has 2,026 active members, plus 115 in renewed membership; and
- The Senior Management Service Class⁹ has 7,876 members, plus 143 in renewed membership.¹⁰

¹ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

³ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 120.

⁴ *Id.*, at 154.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures from Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 123.

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹¹ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹²

A member vests immediately in all employee contributions paid to the investment plan.¹³ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁵

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member’s account varies by class as follows:

Membership Class	Percentage of Gross Compensation¹⁶
Regular Class	6.30%
Special Risk Class	14.00%
Special Risk Administrative Support Class	7.95%
Elected Officers’ Class	
• Justices and Judges	13.23%
• County Elected Officers	11.34%
	9.38%

¹¹ Section 121.4501(8), F.S.

¹² Section 4(e), Art. IV, Fla. Const.

¹³ Section 121.4501(6)(a), F.S.

¹⁴ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member’s account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member’s account to the SBA’s suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

¹⁵ Section 121.591, F.S.

¹⁶ Includes the three percent employee contribution.

Membership Class	Percentage of Gross Compensation ¹⁶
<ul style="list-style-type: none"> Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defender 	
Senior Management Service Class	7.67%

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).¹⁷ Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁸ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.¹⁹ A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.²⁰ The accrual rate varies by class as follows:

Membership Class	Accrual Rate
Regular Class	1.60%, 1.63%, 1.65%, 1.68% ²¹
Special Risk Class	3.00%
Special Risk Administrative Support Class	1.60%, 1.63%, 1.65%, 1.68% ²²
Elected Officers' Class <ul style="list-style-type: none"> Justices and Judges County Elected Officers Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defender 	3.33% 3.00% 3.00%
Senior Management Service Class	2.00%

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²³ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁴ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service

¹⁷ Section 121.025, F.S.
¹⁸ Section 121.021(45)(a), F.S.
¹⁹ Section 121.021(45)(b), F.S.
²⁰ Section 121.091, F.S.
²¹ Section 121.091(1)(a)1., F.S.
²² Section 121.0515(8)(a), F.S.
²³ Section 121.021(29)(a)1., F.S.
²⁴ Section 121.021(29)(b)1., F.S.

or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁵

Default and Second Election

A new member has until the last business day of the fifth month following the member's month of hire to make a plan selection. If the member fails to make a selection, the member defaults to participation in the pension plan.²⁶

After the initial election or default election to participate in either the pension plan or investment plan, a member has one opportunity, at the member's discretion and prior to termination or retirement, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan.²⁷

Disability Retirement Benefits for Members of the FRS

Two types of disability retirement are available under the FRS: in the line of duty disability retirement and regular disability retirement. To qualify for either type of disability retirement, a member must be totally and permanently disabled to the extent that they are unable to work. An employee who is physically or mentally unable to continue performing in his or her present occupation, but is able to perform another type of work, will not qualify for disability benefits.²⁸ To be eligible for regular disability retirement under the FRS, members must complete 8 years of creditable service.²⁹

Under the FRS pension plan, the minimum benefit under regular disability retirement is 25 percent of the employee's average final compensation.³⁰ The in the line of duty disability benefit is available to members on their first day of employment and is 42 percent of the employee's monthly compensation.³¹ There is no vesting period for in the line of duty disability benefits.³² Special Risk Class members receive a minimum in the line of duty disability benefit of 65 percent of their average final compensation.³³

Under the investment plan, the disability benefits are in lieu of the normal benefits (the accumulations of contributions and investment earnings in the member's account).³⁴ Instead, the member must transfer all of the member's accumulations to the investment plan disability account and will receive a monthly benefit calculated the same as a similarly situated pension plan member.³⁵

²⁵ Section 121.021(29)(a)2. and (b)2., F.S.

²⁶ Section 121.4501(4), F.S.

²⁷ Section 121.4501(4)(g), F.S.

²⁸ Florida Retirement System Employer Handbook, Disability Retirement, Ch. 10-3, *available at* https://www.rol.frs.state.fl.us/forms/EH_ch10.pdf (last visited Jan. 19, 2017).

²⁹ Sections 121.091(4)(a) and 121.591(2)(b), F.S.

³⁰ Section 121.091(4)(f), F.S.

³¹ *Id.*

³² Section 121.091(4)(a)1.b., F.S.

³³ *Id.*

³⁴ Section 121.591(2), F.S.

³⁵ Section 121.591(2)(g), F.S.

Death or Survivor Benefits

Section 121.091(7), F.S., provides death benefits for active members of the FRS pension plan who die before retirement. If an employee dies before vesting, the employee's spouse receives only the accumulated FRS contributions that were made on the employee's behalf. For vested employees, the employee will be assumed to have retired on the date of death, and the spouse may elect one of the annuity options that provide payment to survivors. Because those annuity options are based on the number of years of service and are discounted based on the age of the annuity recipient, the beneficiary of younger employees with few years of service receive a relatively small monthly amount.

The FRS currently provides death benefits for surviving spouses and/or eligible dependents of active members of the pension plan. Death benefits may be paid for an active member of the FRS pension plan who dies before retirement.³⁶ Certain health conditions for firefighters, law enforcement, correctional and correctional probation officers are deemed accidental and suffered in the line of duty.³⁷ If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member's surviving spouse and/or eligible dependent(s) are entitled to in the line of duty death benefits.

If an active FRS member (regardless of vested status) dies in the line of duty, the surviving spouse receives a monthly benefit for his or her lifetime equal to one-half the member's monthly salary at death.³⁸ If an active FRS member in the Special Risk class is killed in the line of duty on or after July 1, 2013, the surviving spouse receives an additional monthly benefit equal to one-half of the member's monthly salary; making the monthly benefit equal to the member's entire monthly salary at death³⁹.

If the spouse dies, the benefit continues until the member's youngest child reaches 18 or is married, whichever occurs first.⁴⁰ If the child is unmarried and enrolled as a full time student, the benefit continues until he or she turns 25.⁴¹ If the deceased member is entitled to a higher normal retirement benefit based on service credit, the normal retirement benefit is payable to the joint annuitant.⁴²

For instances relating to in the line of duty deaths, the surviving spouse or eligible dependent(s) may purchase credit for any service which could have been claimed by the member at the time of the member's death.⁴³ If a member dies within one year of vesting, the surviving spouse or other eligible dependent may use the member's annual, sick, or compensatory leave, or service eligible for purchase, to purchase enough service credit to vest the member posthumously.⁴⁴

³⁶ Section 121.091(7), F.S.

³⁷ Section 112.18(1)(a), F.S., provides any condition of health caused by tuberculosis, heart disease or hypertension resulting in the total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty.

³⁸ Section 121.091(7)(d), F.S. If vested posthumously, the surviving spouse or dependent would be entitled to a death benefit.

³⁹ Section 121.091(7)(i), F.S.

⁴⁰ Section 121.091(7)(d) and (i), F.S.

⁴¹ *Id.*

⁴² Section 121.091(7)(b) and (d), F.S.

⁴³ Section 121.091(7)(e), F.S.

⁴⁴ Section 121.091(7)(f), F.S.

Under most employee classes in the investment plan, no minimum death benefit is payable to a surviving spouse or children. Accumulations in the member's account are payable to the designated beneficiary.⁴⁵

When killed in the line of duty, the surviving spouse or children of an investment plan member in the Special Risk Class may opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan.⁴⁶ By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits much like the survivor benefits afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.⁴⁷

DROP

All membership classes in the FRS Pension Plan may participate in the Deferred Retirement Option Program (DROP), which allows a member to retire without terminating employment. A member who enters DROP may extend employment for an additional five years.⁴⁸ For most members, the election to participate in DROP must be made no later than twelve months after reaching normal retirement.⁴⁹ While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.⁵⁰ Upon termination of employment, the member receives the total DROP accumulations and the previously determined normal retirement benefits.⁵¹

Members in the FRS Investment Plan may not participate in DROP; investment plan members are considered retired from the FRS when the member takes a distribution from his or her account.⁵²

Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with her or his FRS employer.⁵³ Termination is void if any FRS-participating employer reemploys a member during a specified period of time.⁵⁴

⁴⁵ Section 121.591(3), F.S.

⁴⁶ Section 121.591(4), F.S.

⁴⁷ *Id.*

⁴⁸ Section 121.091(13)(a) and (b), F.S. Instructional personnel may extend employment for an additional eight years under certain circumstances.

⁴⁹ Section 121.091(13)(a)2., F.S.

⁵⁰ If DROP participation began prior to July 1, 2011, the effective annual interest rate was 6.5 percent. On or after July 1, 2011, the annual interest rate for DROP is 1.3 percent.

⁵¹ Section 121.091(13), F.S.

⁵² *See s.* 121.4501(2)(k) and (4)(f), F.S.

⁵³ Section 121.021(39)(a), F.S.

⁵⁴ *Id.*

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.⁵⁵

Before July 1, 2010, an FRS retiree was allowed to be reemployed by an FRS employer provided certain requirements were met. A member was allowed to be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree was reemployed during months two through 12 after retiring or terminating DROP, the retiree was not authorized to receive her or his pension benefit until month 13. However, a retiree was authorized to be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.⁵⁶

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, the retiree may not receive her or his pension benefit until month 13.⁵⁷ The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire and are reemployed on or after July 1, 2010.

Renewed Membership

Retirees of the FRS Pension Plan or the FRS Investment Plan who were initially re-employed in covered employment by June 30, 2010, renewed their membership in the FRS (the member could choose to participate in either the pension plan or the investment plan) or other state-administered retirement system and earn service credit toward a subsequent retirement benefit. Renewed members are not eligible to participate in DROP or the Special Risk Class, and are not eligible for disability retirement. However, the surviving spouse and dependent child of a renewed member may qualify for survivor benefits.⁵⁸

Currently, retirees initially reemployed in a regularly established position on or after July 1, 2010, are not eligible for renewed membership and do not earn creditable service toward a subsequent retirement benefit.⁵⁹ This restriction from renewed membership includes retirees of the FRS Pension Plan and the FRS Investment Plan, as well as members of an optional retirement program.

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

⁵⁵ Section 121.091(9)(a), F.S.

⁵⁶ Section 121.091(9)(b), F.S.

⁵⁷ Section 121.091(9)(c), F.S.

⁵⁸ Section 121.122(1), F.S.

⁵⁹ Section 121.122(2), F.S.

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;⁶⁰
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;⁶¹ and
- Members of a Florida College System institution may elect to enroll in the State Community College System Optional Retirement Program.⁶²

Contribution Rates

FRS employers are responsible for contributing a specified percentage of the member’s monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.⁶³ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2016, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan.⁶⁴

	Valuation Results (in \$ billions)			
	July 1, 2013	July 1, 2014	July 1, 2015	July 1, 2016
Actuarial Liability	\$153.3	\$160.1	\$165.5	\$170.4
Actuarial Value of Assets	\$131.7	\$138.6	\$143.2	\$145.5
Unfunded Actuarial Liability	\$ 21.6	\$21.5	\$22.3	\$24.9
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	85.9%	86.6%	86.5%	85.4%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize the unfunded actuarial liabilities

⁶⁰ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

⁶¹ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

⁶² If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

⁶³ Section 121.70(1), F.S.

⁶⁴ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 101.

(UAL) over a thirty year period. The following are the current employer contribution rates⁶⁵ for each class and the blended rates recommended by the state actuary beginning in July 2017:⁶⁶

Membership Class	Current Rates Effective July 1, 2016		Recommended Rates to be effective July 1, 2017	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	2.97%	2.83%	2.89%	3.30%
Special Risk Class	11.80%	9.05%	11.81%	9.57%
Special Risk Administrative Support Class	3.87%	22.47%	3.81%	29.08%
Elected Officer’s Class				
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.63%	33.75%	6.41%	42.69%
• Justices and Judges	11.68%	23.30%	11.66%	26.25%
• County Officers	8.55%	32.20%	8.48%	35.24%
Senior Management Service Class	4.38%	15.67%	4.28%	16.70%
Deferred Retirement Option Program	4.23%	7.10%	4.17%	7.43%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.⁶⁷

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee’s individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.⁶⁸

Retirement Plans for Municipalities and Special Districts

Chapters 175 and 185, F.S., provide funding mechanisms for municipal firefighters’ and police officers’ pension plans. Both chapters provide a uniform retirement system for firefighters and police officers and set standards for operating and funding of pension systems through a trust fund supported by a tax on insurance premiums. Most Florida firefighters and local law enforcement officers participate in these plans. Two types of plans are governed by each of these chapters—charter plans and local law plans. To be considered totally and permanently disabled, charter plan employees must only be found disabled from rendering useful and efficient service as a firefighter or police officer.⁶⁹ Under local law plans, the standards may vary for determining

⁶⁵ Section 121.71(4) and (5), F.S.

⁶⁶ Letter to Ms. Elizabeth Stevens, *Re: Blended Proposed Statutory Rates for the 2017-2018 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 2, 2016 (on file with the Senate Committee on Governmental Accountability and Oversight).

⁶⁷ Section 121.71(3), F.S.

⁶⁸ See ss. 121.4503 and 121.72(1), F.S.

⁶⁹ Sections 175.191 and 185.18, F.S.

eligibility for disability retirement, death benefits, and the benefits paid, although all plans must abide by minimum standards established under ss. 175.351 and 185.35, F.S., respectively.

Workers' Compensation under Chapter 440, F.S.

The employer must pay compensation or furnish benefits if the employee suffers an accidental compensable injury or death arising out of work performed in the course and scope of employment.⁷⁰ The injury, its occupational cause, and any resulting disability must be established to a reasonable degree of medical certainty, and the accidental compensable injury must be the major contributing cause of any resulting injuries.⁷¹

Compensation for permanent total disability is equal to two-thirds of the employee's average weekly wages payable to the employee during the continuance of the total disability.⁷²

Compensation for temporary total disability is equal to two-thirds of the employee's average weekly wages payable to the employee during the continuance of the total disability but not to exceed 104 weeks. At the earlier of the 104th week or the employee reaching maximum medical improvement, the temporary disability payment will cease and the injured employee's permanent impairment will be determined.⁷³

Where the disability or death of an employee results from an "occupational disease," it will be treated as an injury by accident.⁷⁴ The employee or his survivors will be entitled to compensation. "Occupational disease" is defined to be "only a disease for which there are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee."⁷⁵

Presumptions and Burdens of Proof Relating to "in the line of duty" Disability and Death

Existing In the Line of Duty Presumptions for Firefighters

Section 112.18, F.S., provides a presumption applicable to any state, municipal, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer that any such employee qualifies for in the line of duty disability or death benefits if such disability or death is the result of tuberculosis, heart disease, or hypertension.

Section 175.231, F.S., provides a similar presumption for the firefighters in any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under ch. 175, F.S., whose death or disability is the result of tuberculosis, heart disease, or hypertension.

⁷⁰ Section 440.09(1), F.S.

⁷¹ *Id.*

⁷² Section 440.15(1)(a), F.S.

⁷³ Section 440.15(2)(a), F.S.

⁷⁴ Section 440.151(1)(a), F.S.

⁷⁵ Section 440.151(2), F.S.

Section 112.181, F.S., provides a presumption applicable to any emergency rescue or public safety worker, including a firefighter, that such employee qualifies for in the line of duty disability or death if such disability or death is due to hepatitis, meningococcal meningitis, or tuberculosis.

Successful passage of a pre-employment physical examination is required for these presumptions.

Burden of Proof for In the Line of Duty Benefits

Absent one of the existing presumptions, the FRS member employee has the burden of proof when claiming in the line of duty disability or death benefits. The employee must show by competent evidence that the death or disability occurred in the line of duty in order to receive the higher benefits.⁷⁶ If the employee or the employee's survivors cannot meet the burden of proof, the employee or the employee's survivors are entitled only to the lesser benefits available under regular death or disability benefits.

Under existing law, a firefighter that is disabled or dies as a result of cancer must show that the cancer was contracted due to some factor directly related to the employment as a firefighter. Due to latency periods,⁷⁷ it may be difficult for an employee to meet this burden.

Studies on the Incidence of Cancer in Firefighters

The 2015-2016 General Appropriations Act contained a \$965,000 appropriation funding a cancer study by the University of Miami-Sylvester Comprehensive Cancer Center through the Division of the State Fire Marshal. The study's goals are to provide firefighters access to cancer screenings, enable prevention and earlier detection of the disease, identify exposures that account for increased cancer risk, and develop new technology and methods to test and measure exposure in the field. A progress report⁷⁸ was submitted to the President of the Senate, Speaker of the House of Representatives, the Chief Financial Officer, and the Governor on June 15, 2016. Additionally, the 2016-2017 General Appropriations Act contained a \$1.5 million appropriation to continue the study. Another report will be submitted to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Governor by June 15, 2017.

A National Institute for Occupation Safety and Health (NIOSH) study of cancer among U.S. firefighters has shown higher rates of certain types of cancer among firefighters than the general U.S. population.⁷⁹ These types of cancer were mostly digestive, oral, respiratory, and urinary

⁷⁶ Sections 121.091(4)(c) and (7)(d), F.S.

⁷⁷ "The time between first exposure to a cancer-causing agent and clinical recognition of the disease is called the latency period. Latency periods vary by cancer type, but usually are 15 to 20 years, or longer. Because of this, past exposures are more relevant than current exposures as potential causes of cancers occurring in workers today. Often, these exposures are hard to document." The National Institute for Occupational Safety and Health (NIOSH), *available at* <http://www.cdc.gov/niosh/topics/cancer/clusters.html> (last visited January 20, 2017).

⁷⁸ Sylvester Comprehensive Cancer Center, *Fiscal Year 2015-2016 Progress Report of Firefighters Cancer Initiative (FCI)*, dated June 15, 2016 (on file with the Committee on Governmental Oversight and Accountability).

⁷⁹ National Institute for Occupation Safety and Health (NIOSH) study summary *available at* <https://www.cdc.gov/niosh/firefighters/ffcancerstudy.html> (last visited January 20, 2017).

cancers, although there were about twice as many firefighters with malignant mesothelioma, which is a rare type of cancer caused by exposure to asbestos.⁸⁰

Special Actuarial Study of Firefighter in line of duty Cancer Presumption

On February 23, 2017, a special study⁸¹ was completed to determine the contribution rates necessary to fund the FRS benefits that may be paid based on the presumptions proposed under Senate Bill 158 as filed during the 2017 Regular Session. The results of this study determined that the contribution rate for the Special Risk Class needed to be increased by 1 basis points (0.01 percent) to fund associated costs.

III. Effect of Proposed Changes:

Firefighters' Cancer Presumption

The bill provides that any condition or impairment of the health of a firefighter employed full-time by a state or local government which is caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer and results in total or partial disability or death is presumed to have been accidental and to have been suffered "in the line of duty" unless the contrary is shown by competent evidence. In the line of duty retirement compensates an employee whose disability or death arises out of and in the actual performance of employment. In the line of duty retirement provides greater compensation to the firefighter or his or her dependents than would otherwise be available.

In order to be entitled to the presumption, a firefighter must have:

- Successfully passed a pre-employment physical examination that did not reveal any evidence of a health condition.
- Been employed as a firefighter with the current employer for at least 5 continuous years before becoming disabled or before the employee's death.
- Not used tobacco products for at least 5 years before becoming disabled or before the employee's death; and
- Not been employed during the preceding 5 years in any other position that is proven to create a higher risk for the named diseases.

A firefighter employed on July 1, 2017, is not required to meet the physical examination requirement in order to be entitled to the presumption.

The proposed changes result in a 0.01 percent increase in the employer contribution rate for the Special Risk class.⁸² This is included in the rate changes in section 11 of the bill.

The additional costs to other public sector retirement plans has not been determined.

⁸⁰ *Id.*

⁸¹ Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption*, dated February 23, 2017 (on file with the Committee on Governmental Oversight and Accountability).

⁸² Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption*, dated February 23, 2017 (on file with the Committee on Governmental Oversight and Accountability).

The fiscal impact of this legislation as it relates to workers' compensation benefits has not been determined.

Renewed Membership

Effective July 1, 2017, the bill allows for renewed membership for certain former participants of the investment plan, Senior Management Service Optional Annuity Program, State University System Optional Retirement Program (SUSORP), or State Community College System Optional Retirement Program (SCCSORP). Such renewed member will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSORP or the SCCSORP, as applicable. To be eligible for renewed membership, the member must have retired from one of the four specified plans and must be employed in a regularly established position with a covered employer on or after July 1, 2017.

Such renewed member may not qualify for disability retirement benefits and must satisfy the vesting requirements of the specific plan. The bill prohibits certain funds from being paid into the renewed member's account for any employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2017. A renewed member who is not receiving the maximum health insurance subsidy is entitled to earn additional credit toward the subsidy.

Line-of-Duty Death Benefits

Effective July 1, 2017, the bill expands the survivor benefit for members of the Special Risk Class. Specifically, it provides that such survivor benefits are retroactive to July 1, 2002.

Effective July 1, 2017, the bill also establishes a survivor benefit for all other membership classes of the investment plan for members who are killed in the line of duty since 2002, which is when members were first allowed to participate in the investment plan. The survivor benefits are the same as those currently provided for other membership classes of the pension plan, which is a monthly payment equal to one-half of the member's salary at the time of death. To receive the benefit, the spouse and children must elect to transfer the balance of the member's investment plan account to the survivor benefit account of the FRS Trust Fund. The line-of-duty death benefits supersede any other distribution that may have been provided by the member's designation of beneficiary. For a member killed in the line of duty on or after July 1, 2002, but before July 1, 2017, the initial monthly benefit payable on or after July 1, 2017, will be equal to one-half the member's salary at the time of death, except that it will be:

- Actuarially reduced by the amount of the investment plan payout, if a payout was issued; and
- After the actuarial reduction, increased by the applicable cost-of-living adjustment that would have been payable if the survivor benefit payment had begun the month following the member's death. On each July 1 after the initial payment, the benefit will be increased by the applicable cost-of-living adjustment.

Senior Management Service Optional Annuity Program

The bill closes the SMSOAP to new participants effective July 1, 2017. Currently, fewer than 20 members participate in this optional retirement program.⁸³

Default

For members initially enrolled in the FRS on or after January 1, 2018, the bill changes the default from the pension plan to the investment plan. Thus, if the member does not make a selection by the end of the five month initial election period, the member will default to the investment plan instead of the pension plan. The bill maintains the member's second election option.

Important State Interest

The bill declares that it fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the Florida Constitution provides in pertinent part that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such law fulfills an important state interest and unless:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated.”

The bill contains a finding that the bill fulfills an important state interest (section 12). The bill appears to apply to all persons similarly situated (FRS employees and those employers employing firefighters), including state agencies, school boards, community colleges, counties, municipalities and special districts. If this exception does not apply, the bill must be approved by two-thirds vote of each chamber to be binding upon the counties and municipalities participating in the FRS.

B. Public Records/Open Meetings Issues:

None.

⁸³ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 38. Available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act” (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provides that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.⁸⁴ This “preservation of rights” provision⁸⁵ was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.⁸⁶ The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member under the previous benefit structure remain untouched, and the member continues to enjoy that

⁸⁴ Section 121.011(3)(d), F.S.

⁸⁵ The “preservation of rights” provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So. 2d 1033, 1037 (Fla. 1981).

⁸⁶ *Id.* at 1035.

level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.⁸⁷

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits that accrue for future state service.⁸⁸ More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.⁸⁹

This bill does not change any benefits that a member earned prior to July 1, 2017.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The line of duty cancer presumption could have a significant impact on worker's compensation because the threshold eligibility test for workers' compensation is whether the disability arose "out of and in the course of employment." If the disability did not arise "out of and in the course of employment," the employee is not eligible to receive workers' compensation benefits. There is no provision under ch. 440, F.S., for a non-duty related disability as may be found in many retirement plans.

Additional workers' compensation claims costs for firefighters contracting the cancers listed in this bill are difficult to predict. The frequency, severity, and cost estimates vary widely due to factors such as age, gender, type of treatment, and recovery period⁹⁰. The Department of Financial Services estimates average costs for 58 months of treatment (not until final resolution) at⁹¹:

- \$28,988.27 for testicular cancer;
- \$115,378.06 for non-Hodgkin's lymphoma;
- \$53,357.66 for prostate cancer; and
- Between \$126,000-\$256,000 for multiple myeloma.

⁸⁷ *Id.* at 1036.

⁸⁸ *Id.* at 1037.

⁸⁹ *Rick Scott, et al. v. George Williams, et al.*, 107 So. 3d 379 (Fla. 2013).

⁹⁰ Department of Financial Services, *Senate Bill 158 Legislative Bill Analysis*, 4 (Jan. 5, 2017)

⁹¹ *Id.*

If successful workers’ compensation claims increase due to the presumption afforded by the bill, assessments paid by carriers and employers of the Special Disability Trust Fund may increase.

The Milliman actuarial and consulting firm conducted several studies at the request of the Speaker of the House of Representatives. Based on the results of the special studies, the benefit changes proposed by the bill are projected to have a total negative fiscal impact of \$10.4 million in fiscal year 2017-18. Further detail on the costs is provided in the following chart:

		Cost to Fund the Cancer Presumption, Line of Duty Benefits, and the Change in Default (\$ in millions)	
Entities Funded by the State			
State	\$		2,042,982
School Boards	\$		1,346,679
State Universities	\$		186,991
State Colleges	\$		106,780
<i>Total</i>	\$		3,683,432
Other Entities not Funded by the State			
Counties	\$		6,095,306
Other	\$		577,685
<i>Total</i>	\$		6,672,992
<i>Grand Total</i>	\$		10,356,423

The provisions relating to renewed membership in the FRS is expected to have an additional negative fiscal impact of \$9.3 million across all employers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 121.053, 121.055, 121.091, 121.122, 121.4501, 121.591, 121.5912, and 121.735.

This bill creates the following sections of the Florida Statutes: 112.1816.

IX. Additional Information:

- A. **Committee Substitute – Statement of 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.



276328

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/25/2017	.	
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The Committee on Governmental Oversight and Accountability
(Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 480 - 1079

and insert:

(j) Notwithstanding s. 121.4501(4)(g), the renewed member is not eligible to elect membership in the pension plan.

(4) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after



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11 July 1, 2017, in a regularly established position eligible for
12 participation in the State University System Optional Retirement
13 Program shall become a renewed member of the optional retirement
14 program. The renewed member must satisfy the vesting
15 requirements and other provisions of this chapter. Once
16 enrolled, a renewed member remains enrolled in the optional
17 retirement program while employed in an eligible position for
18 the optional retirement program. If employment in a different
19 covered position results in the renewed member's enrollment in
20 the investment plan, the renewed member is no longer eligible to
21 participate in the optional retirement program unless employed
22 in a mandatory position under s. 121.35.

23 (a) The renewed member is subject to the limitations on
24 reemployment after retirement provided in s. 121.091(9), as
25 applicable.

26 (b) The renewed member must satisfy the requirements for
27 termination from employment provided in s. 121.021(39).

28 (c) Upon renewed membership or reemployment of a retiree,
29 the employer and the renewed member shall pay the applicable
30 employer and employee contributions required under s. 121.35.

31 (d) Employer and employee contributions, interest,
32 earnings, or any other funds may not be paid into a renewed
33 member's optional retirement program account for any employment
34 in a regularly established position with a covered employer on or
35 after July 1, 2010, through June 30, 2017, by the renewed member
36 or the employer on behalf of the renewed member.

37 (e) Notwithstanding s. 121.4501(4)(g), the renewed member
38 is not eligible to elect membership in the pension plan.

39 (5) A retiree of the investment plan, the State University



40 System Optional Retirement Program, the Senior Management
41 Service Optional Annuity Program, or the State Community College
42 System Optional Retirement Program who is reemployed on or after
43 July 1, 2017, in a regularly established position eligible for
44 participation in the State Community College System Optional
45 Retirement Program shall become a renewed member of the optional
46 retirement program. The renewed member must satisfy the
47 eligibility requirements of this chapter and s. 1012.875 for the
48 optional retirement program. Once enrolled, a renewed member
49 remains enrolled in the optional retirement program while
50 employed in an eligible position for the optional retirement
51 program. If employment in a different covered position results
52 in the renewed member's enrollment in the investment plan, the
53 renewed member is no longer eligible to participate in the
54 optional retirement program.

55 (a) The renewed member is subject to the limitations on
56 reemployment after retirement provided in s. 121.091(9), as
57 applicable.

58 (b) The renewed member must satisfy the requirements for
59 termination from employment provided in s. 121.021(39).

60 (c) Upon renewed membership or reemployment of a retiree,
61 the employer and the renewed member shall pay the applicable
62 employer and employee contributions required under ss.
63 121.051(2)(c) and 1012.875.

64 (d) Employer and employee contributions, interest,
65 earnings, or any other funds may not be paid into a renewed
66 member's optional retirement program account for any employment
67 in a regularly established position with a covered employer on
68 or after July 1, 2010, through June 30, 2017, by the renewed



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69 member or the employer on behalf of the renewed member.

70 (e) Notwithstanding s. 121.4501(4)(g), the renewed member
71 is not eligible to elect membership in the pension plan.

72 Section 6. Paragraph (e) of subsection (2), paragraph (f)
73 of subsection (4), and paragraph (c) of subsection (5), of
74 section 121.4501, Florida Statutes, are amended to read:

75 121.4501 Florida Retirement System Investment Plan.—

76 (2) DEFINITIONS.—As used in this part, the term:

77 (e) "Eligible employee" means an officer or employee, as
78 defined in s. 121.021, who:

79 1. Is a member of, or is eligible for membership in, the
80 Florida Retirement System, including any renewed member of the
81 Florida Retirement System initially enrolled before July 1,
82 2010; ~~or~~

83 2. Participates in, or is eligible to participate in, the
84 Senior Management Service Optional Annuity Program as
85 established under s. 121.055(6), the State Community College
86 System Optional Retirement Program as established under s.
87 121.051(2)(c), or the State University System Optional
88 Retirement Program established under s. 121.35; or

89 3. Is a retired member of the investment plan, the State
90 University System Optional Retirement Program, the Senior
91 Management Service Optional Annuity Program, or the State
92 Community College System Optional Retirement Program who is
93 reemployed in a regularly established position on or after July
94 1, 2017, and enrolled as a renewed member as provided in s.
95 121.122.

96
97 The term does not include any member participating in the



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98 Deferred Retirement Option Program established under s.
99 121.091(13), a retiree of the pension plan who is reemployed in
100 a regularly established position on or after July 1, 2010, a
101 retiree of a state-administered retirement system initially
102 reemployed in a regularly established position on or after July
103 1, 2010, through June 30, 2017, or a mandatory participant of
104 the State University System Optional Retirement Program
105 established under s. 121.35.

106 (4) PARTICIPATION; ENROLLMENT.—

107 (f)1. A member of the investment plan who takes a
108 distribution of any contributions from his or her investment
109 plan account is considered a retiree. A retiree who is initially
110 reemployed in a regularly established position on or after July
111 1, 2010, through June 30, 2017, is not eligible for to be
112 enrolled in renewed membership, except as provided in s.
113 121.122.

114 2. A retiree who is reemployed on or after July 1, 2017,
115 shall be enrolled as a renewed member as provided in s. 121.122.

116 (5) CONTRIBUTIONS.—

117 (c) The state board, acting as plan fiduciary, must ensure
118 that all plan assets are held in a trust, pursuant to s. 401 of
119 the Internal Revenue Code. The fiduciary must ensure that such
120 contributions are allocated as follows:

121 1. The employer and employee contribution portion earmarked
122 for member accounts shall be used to purchase interests in the
123 appropriate investment vehicles as specified by the member, or
124 in accordance with paragraph (4) (d).

125 2. The employer contribution portion earmarked for
126 administrative and educational expenses shall be transferred to



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127 the state board's Administrative Trust Fund.

128 3. The employer contribution portion earmarked for
129 disability benefits and line-of-duty death benefits shall be
130 transferred to the Florida Retirement System Trust Fund.

131

132 ===== T I T L E A M E N D M E N T =====

133 And the title is amended as follows:

134 Delete lines 52 - 60

135 and insert:

136 121.4501, F.S.; redefining the term "eligible
137 employee"; conforming



435512

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/25/2017	.	
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The Committee on Governmental Oversight and Accountability
(Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1298 - 1316

and insert:

Section 11. Subsections (4) and (5) of section 121.72,
Florida Statutes, are amended to read:

121.72 Allocations to investment plan member accounts;
percentage amounts.—

(4) Effective July 1, 2002, through June 30, 2012, and
effective July 1, 2017, allocations from the Florida Retirement



435512

11 System Contributions Clearing Trust Fund to investment plan
12 member accounts are as follows:

13

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

14

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Regular Class	9.00%
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16

Special Risk Class	20.00%
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17

Special Risk Administrative Support Class	11.35%
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18

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
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19

Elected Officers' Class— Justices, Judges	18.90%
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20

Elected Officers' Class— County Elected Officers	16.20%
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Senior Management Service	10.95%
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Class

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(5) Effective July 1, 2012, through June 30, 2017,
allocations from the Florida Retirement System Contributions
Clearing Trust Fund to investment plan member accounts are as
follows:

Membership Class	Percentage of Gross Compensation
Regular Class	6.30%
Special Risk Class	14.00%
Special Risk Administrative Support Class	7.95%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	9.38%
Elected Officers' Class— Justices, Judges	13.23%



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Elected Officers' Class-	
County Elected Officers	11.34%
Senior Management Service	
Class	7.67%

Section 12. (1) In order to fund the benefit changes provided in this act, the required employer contribution rate for members of the Florida Retirement System established in s. 121.71(4), Florida Statutes, are adjusted as follows:

(a) The Regular Class is increased by 0.50 percentage point.

(b) The Special Risk Class is increased by 0.98 percentage point.

(c) The Special Risk Administrative Support Class is increased by 1.13 percentage point.

(d) The Elected Officers' Class-Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, and Public Defenders is increased by 1.03 percentage point.

(e) The Elected Officers' Class-Justices, Judges is increased by 0.51 percentage point.

(f) The Elected Officers' Class-County Elected Officers is increased by 1.52 percentage point.

(g) The Senior Management Service Class is increased by 0.84 percentage point.

===== T I T L E A M E N D M E N T =====



435512

60 And the title is amended as follows:
61 Delete line 76
62 and insert:
63 cancer research programs by a certain date; amending
64 s. 121.72, F.S.; revising allocations from the Florida
65 Retirement System Contributions Clearing Trust Fund to
66 investment plan member accounts on a certain date;
67 revising

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-04040A-17

20177030pb

1 A bill to be entitled
 2 An act relating to retirement; creating s. 112.1816,
 3 F.S.; defining the term "firefighter"; establishing a
 4 presumption as to a firefighter's condition or
 5 impairment of health caused by certain types of cancer
 6 he or she contracts in the line of duty; specifying
 7 criteria a firefighter must meet to be entitled to the
 8 presumption; requiring an employing agency to provide
 9 a physical examination for a firefighter; specifying
 10 circumstances under which the presumption does not
 11 apply; providing for applicability; amending s.
 12 121.053, F.S.; authorizing renewed membership in the
 13 Florida Retirement System for retirees who are
 14 reemployed in a position eligible for the Elected
 15 Officers' Class under certain circumstances; amending
 16 s. 121.055, F.S.; providing for renewed membership in
 17 the retirement system for retirees of the Senior
 18 Management Service Optional Annuity Program who are
 19 reemployed on or after a specified date; closing the
 20 Senior Management Service Optional Annuity Program to
 21 new members after a specified date; amending s.
 22 121.091, F.S.; revising criteria for eligibility of
 23 payment of death benefits to the surviving children of
 24 a Special Risk Class member killed in the line of duty
 25 under specified circumstances; conforming a provision
 26 to changes made by the act; amending s. 121.122, F.S.;
 27 requiring that certain retirees who are reemployed on
 28 or after a specified date be renewed members in the
 29 investment plan; providing exceptions; specifying that

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30 creditable service does not accrue for employment
 31 during a specified period; prohibiting certain funds
 32 from being paid into a renewed member's investment
 33 plan account for a specified period of employment;
 34 requiring the renewed member to satisfy vesting
 35 requirements; prohibiting a renewed member from
 36 receiving specified disability benefits; specifying
 37 limitations and requirements; requiring the employer
 38 and the retiree to make applicable contributions to
 39 the renewed member's investment plan account;
 40 providing for the transfer of contributions;
 41 authorizing a renewed member to receive additional
 42 credit toward the health insurance subsidy under
 43 certain circumstances; prohibiting participation in
 44 the pension plan; providing that a retiree reemployed
 45 on or after a specified date in a regularly
 46 established position eligible for the State University
 47 System Optional Retirement Program or State Community
 48 College System Optional Retirement Program is a
 49 renewed member of that program; specifying limitations
 50 and requirements; requiring the employer and the
 51 retiree to make applicable contributions; amending s.
 52 121.4501, F.S.; revising definitions; revising a
 53 provision relating to acknowledgement of an employee's
 54 election to participate in the investment plan;
 55 enrolling certain employees in the pension plan from
 56 their date of hire until they are automatically
 57 enrolled in the investment plan or timely elect
 58 enrollment in the pension plan; providing certain

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59 members with a specified time to choose participation
 60 in the pension plan or the investment plan; conforming
 61 provisions to changes made by the act; amending s.
 62 121.591, F.S.; authorizing payment of death benefits
 63 to the surviving spouse or surviving children of a
 64 member in the investment plan; establishing
 65 qualifications and eligibility requirements for
 66 receipt of such benefits; prescribing the method of
 67 calculating the benefit; specifying circumstances
 68 under which benefit payments are terminated; amending
 69 s. 121.5912, F.S.; revising a provision regarding
 70 program qualification under the Internal Revenue Code
 71 and rulemaking authority, to conform to changes made
 72 by the act; amending s. 121.735, F.S.; revising
 73 allocations to fund line-of-duty death benefits for
 74 investment plan members, to conform to changes made by
 75 the act; requiring the Legislature to review specified
 76 cancer research programs by a certain date; revising
 77 employer contribution rates to fund changes made by
 78 the act; providing a directive to the Division of Law
 79 Revision and Information; providing a declaration of
 80 important state interest; providing an effective date.

81
 82 Be It Enacted by the Legislature of the State of Florida:

83
 84 Section 1. Section 112.1816, Florida Statutes, is created
 85 to read:
 86 112.1816 Firefighter disability or death from cancer
 87 presumed contracted in the line of duty.-

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88 (1) DEFINITION.-As used in this section, the term
 89 "firefighter" has the same meaning as in s. 112.81.
 90 (2) PRESUMPTION; ELIGIBILITY CONDITIONS.-
 91 (a) Any condition or impairment of the health of a
 92 firefighter employed full time by the state or any municipality,
 93 county, port authority, special tax district, or fire control
 94 district which is caused by multiple myeloma, non-Hodgkin's
 95 lymphoma, prostate cancer, or testicular cancer and results in
 96 total or partial disability or death is presumed to have been
 97 accidental and to have been contracted in the line of duty
 98 unless the contrary is shown by competent evidence. In order to
 99 be entitled to this presumption, the firefighter:
 100 1. Must have successfully passed a physical examination
 101 administered before the individual began service as a
 102 firefighter and which failed to reveal any evidence of such a
 103 health condition;
 104 2. Must have been employed as a firefighter with his or her
 105 current employer for at least 5 continuous years before becoming
 106 totally or partially disabled or before his or her death;
 107 3. Must not have used tobacco products for at least 5 years
 108 before becoming totally or partially disabled or before his or
 109 her death; and
 110 4. Must not have been employed during the preceding 5 years
 111 in any other position that is proven to create a higher risk for
 112 multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or
 113 testicular cancer. This includes any other employment as a
 114 firefighter at another employing agency within the preceding 5
 115 years.
 116 (b) An employing agency must provide a physical examination

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117 for a firefighter before he or she begins service or immediately
 118 thereafter. Notwithstanding subparagraph (a)1., if the employing
 119 agency fails to provide a physical examination before the
 120 firefighter begins service, or immediately thereafter, the
 121 firefighter is entitled to the presumption, provided that he or
 122 she meets the criteria specified in subparagraphs (a)2., (a)3.,
 123 and (a)4.

124 (c) The presumption does not apply to benefits payable
 125 under or granted in a life insurance or disability insurance
 126 policy unless the insurer and insured have negotiated for the
 127 additional benefits to be included in the policy contract.

128 (3) APPLICABILITY.—A firefighter employed on July 1, 2017,
 129 is not required to meet the physical examination requirement in
 130 subsection (2) in order to be entitled to the presumption set
 131 forth in this section.

132 Section 2. Paragraph (a) of subsection (3) and subsection
 133 (5) of section 121.053, Florida Statutes, are amended to read:
 134 121.053 Participation in the Elected Officers' Class for
 135 retired members.—

136 (3) On or after July 1, 2010:

137 (a) A retiree of a state-administered retirement system who
 138 is initially reemployed in ~~elected or appointed for the first~~
 139 ~~time to~~ an elective office in a regularly established position
 140 with a covered employer may not reenroll in the Florida
 141 Retirement System, except as provided in s. 121.122.

142 (5) Any renewed member, as described in s. 121.122(1), (3),
 143 (4), or (5) ~~subsection (1) or subsection (2)~~, who is not
 144 receiving the maximum health insurance subsidy provided in s.
 145 112.363 is entitled to earn additional credit toward the maximum

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146 health insurance subsidy. Any additional subsidy due because of
 147 such additional credit may be received only at the time of
 148 payment of the second career retirement benefit. The total
 149 health insurance subsidy received from initial and renewed
 150 membership may not exceed the maximum allowed in s. 112.363.

151 Section 3. Paragraph (f) of subsection (1) and paragraph
 152 (c) of subsection (6) of section 121.055, Florida Statutes, are
 153 amended to read:

154 121.055 Senior Management Service Class.—There is hereby
 155 established a separate class of membership within the Florida
 156 Retirement System to be known as the "Senior Management Service
 157 Class," which shall become effective February 1, 1987.

158 (1)

159 (f) Effective July 1, 1997:

160 1. Except as provided in subparagraph 3., an elected state
 161 officer eligible for membership in the Elected Officers' Class
 162 under s. 121.052(2)(a), (b), or (c) who elects membership in the
 163 Senior Management Service Class under s. 121.052(3)(c) may,
 164 within 6 months after assuming office or within 6 months after
 165 this act becomes a law for serving elected state officers, elect
 166 to participate in the Senior Management Service Optional Annuity
 167 Program, as provided in subsection (6), in lieu of membership in
 168 the Senior Management Service Class.

169 2. Except as provided in subparagraph 3., an elected
 170 officer of a local agency employer eligible for membership in
 171 the Elected Officers' Class under s. 121.052(2)(d) who elects
 172 membership in the Senior Management Service Class under s.
 173 121.052(3)(c) may, within 6 months after assuming office, or
 174 within 6 months after this act becomes a law for serving elected

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175 officers of a local agency employer, elect to withdraw from the
 176 Florida Retirement System, as provided in subparagraph (b)2., in
 177 lieu of membership in the Senior Management Service Class.

178 3. A retiree of a state-administered retirement system who
 179 is initially reemployed in a regularly established position on
 180 or after July 1, 2010, through June 30, 2017, as an elected
 181 official eligible for the Elected Officers' Class may not be
 182 enrolled in renewed membership in the Senior Management Service
 183 Class or in the Senior Management Service Optional Annuity
 184 Program as provided in subsection (6), and may not withdraw from
 185 the Florida Retirement System as a renewed member as provided in
 186 subparagraph (b)2., as applicable, in lieu of membership in the
 187 Senior Management Service Class. Effective July 1, 2017, a
 188 retiree of the Senior Management Service Optional Annuity
 189 Program who is reemployed in a regularly established position
 190 with a covered employer shall be enrolled as a renewed member as
 191 provided in s. 121.122.

192 (6)

193 (c) *Participation.*—

194 1. An eligible employee who is employed on or before
 195 February 1, 1987, may elect to participate in the optional
 196 annuity program in lieu of participating in the Senior
 197 Management Service Class. Such election shall ~~must~~ be made in
 198 writing and filed with the department and the personnel officer
 199 of the employer on or before May 1, 1987. An eligible employee
 200 who is employed on or before February 1, 1987, and who fails to
 201 make an election to participate in the optional annuity program
 202 by May 1, 1987, is ~~shall be~~ deemed to have elected membership in
 203 the Senior Management Service Class.

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204 2. Except as provided in subparagraph 6., an employee who
 205 becomes eligible to participate in the optional annuity program
 206 by reason of initial employment commencing after February 1,
 207 1987, may, within 90 days after the date of commencing
 208 employment, elect to participate in the optional annuity
 209 program. Such election shall ~~must~~ be made in writing and filed
 210 with the personnel officer of the employer. An eligible employee
 211 who does not within 90 days after commencing employment elect to
 212 participate in the optional annuity program is ~~shall be~~ deemed
 213 to have elected membership in the Senior Management Service
 214 Class.

215 3. A person who is appointed to a position in the Senior
 216 Management Service Class and who is a member of an existing
 217 retirement system or the Special Risk or Special Risk
 218 Administrative Support Classes of the Florida Retirement System
 219 may elect to remain in such system or class in lieu of
 220 participating in the Senior Management Service Class or optional
 221 annuity program. Such election shall ~~must~~ be made in writing and
 222 filed with the department and the personnel officer of the
 223 employer within 90 days after such appointment. An eligible
 224 employee who fails to make an election to participate in the
 225 existing system, the Special Risk Class of the Florida
 226 Retirement System, the Special Risk Administrative Support Class
 227 of the Florida Retirement System, or the optional annuity
 228 program is ~~shall be~~ deemed to have elected membership in the
 229 Senior Management Service Class.

230 4. Except as provided in subparagraph 5., an employee's
 231 election to participate in the optional annuity program is
 232 irrevocable if the employee continues to be employed in an

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233 eligible position and continues to meet the eligibility
234 requirements set forth in this paragraph.

235 5. Effective from July 1, 2002, through September 30, 2002,
236 an active employee in a regularly established position who has
237 elected to participate in the Senior Management Service Optional
238 Annuity Program has one opportunity to choose to move from the
239 Senior Management Service Optional Annuity Program to the
240 Florida Retirement System Pension Plan.

241 a. The election shall ~~must~~ be made in writing and ~~must be~~
242 filed with the department and the personnel officer of the
243 employer before October 1, 2002, or, in the case of an active
244 employee who is on a leave of absence on July 1, 2002, within 90
245 days after the conclusion of the leave of absence. This election
246 is irrevocable.

247 b. The employee shall receive service credit under the
248 pension plan equal to his or her years of service under the
249 Senior Management Service Optional Annuity Program. The cost for
250 such credit is the amount representing the present value of that
251 employee's accumulated benefit obligation for the affected
252 period of service.

253 c. The employee shall ~~must~~ transfer the total accumulated
254 employer contributions and earnings on deposit in his or her
255 Senior Management Service Optional Annuity Program account. If
256 the transferred amount is not sufficient to pay the amount due,
257 the employee shall ~~must~~ pay a sum representing the remainder of
258 the amount due. The employee may not retain any employer
259 contributions or earnings from the Senior Management Service
260 Optional Annuity Program account.

261 6. A retiree of a state-administered retirement system who

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262 is initially reemployed on or after July 1, 2010, through June
263 30, 2017, may not renew membership in the Senior Management
264 Service Optional Annuity Program. Effective July 1, 2017, a
265 retiree of the Senior Management Service Optional Annuity
266 Program who is reemployed in a regularly established position
267 with a covered employer shall be enrolled as a renewed member as
268 provided in s. 121.122.

269 7. Effective July 1, 2017, the Senior Management Service
270 Optional Annuity Program is closed to new members. A member
271 enrolled in the Senior Management Service Optional Annuity
272 Program before July 1, 2017, may retain his or her membership in
273 the annuity program.

274 Section 4. Paragraphs (d) and (i) of subsection (7) and
275 paragraph (c) of subsection (9) of section 121.091, Florida
276 Statutes, are amended to read:

277 121.091 Benefits payable under the system.—Benefits may not
278 be paid under this section unless the member has terminated
279 employment as provided in s. 121.021(39)(a) or begun
280 participation in the Deferred Retirement Option Program as
281 provided in subsection (13), and a proper application has been
282 filed in the manner prescribed by the department. The department
283 may cancel an application for retirement benefits when the
284 member or beneficiary fails to timely provide the information
285 and documents required by this chapter and the department's
286 rules. The department shall adopt rules establishing procedures
287 for application for retirement benefits and for the cancellation
288 of such application when the required information or documents
289 are not received.

290 (7) DEATH BENEFITS.—

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291 (d) Notwithstanding any other provision in this chapter to
 292 the contrary, with the exception of the Deferred Retirement
 293 Option Program, as provided in subsection (13):

294 1. The surviving spouse of any member killed in the line of
 295 duty may receive a monthly pension equal to one-half of the
 296 monthly salary being received by the member at the time of death
 297 for the rest of the surviving spouse's lifetime or, if the
 298 member was vested, such surviving spouse may elect to receive a
 299 benefit as provided in paragraph (b). Benefits provided by this
 300 paragraph shall supersede any other distribution that may have
 301 been provided by the member's designation of beneficiary.

302 2. If the surviving spouse of a member killed in the line
 303 of duty dies, the monthly payments that would have been payable
 304 to such surviving spouse had such surviving spouse lived shall
 305 be paid for the use and benefit of such member's child or
 306 children under 18 years of age and unmarried until the 18th
 307 birthday of the member's youngest child. Beginning July 1, 2016,
 308 such payments may be extended, for the surviving child of a
 309 member in the Special Risk Class at the time he or she was
 310 killed in the line of duty on or after July 1, 2013, until the
 311 25th birthday of any child of the member if the child is
 312 unmarried and enrolled as a full-time student. Beginning July 1,
 313 2017, such payments may be extended, for the surviving child of
 314 a member in the Special Risk Class at the time he or she was
 315 killed in the line of duty on or after July 1, 2002, until the
 316 25th birthday of any child of the member if the child is
 317 unmarried and enrolled as a full-time student.

318 3. If a member killed in the line of duty leaves no
 319 surviving spouse but is survived by a child or children under 18

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320 years of age, the benefits provided by subparagraph 1., normally
 321 payable to a surviving spouse, shall be paid for the use and
 322 benefit of such member's child or children under 18 years of age
 323 and unmarried until the 18th birthday of the member's youngest
 324 child. Beginning July 1, 2016, such monthly payments may be
 325 extended, for the surviving child of a member in the Special
 326 Risk Class at the time he or she was killed in the line of duty
 327 on or after July 1, 2013, until the 25th birthday of any child
 328 of the member if the child is unmarried and enrolled as a full-
 329 time student. Beginning July 1, 2017, such monthly payments may
 330 be extended, for the surviving child of a member in the Special
 331 Risk Class at the time he or she was killed in the line of duty
 332 on or after July 1, 2002, until the 25th birthday of any child
 333 of the member if the child is unmarried and enrolled as a full-
 334 time student.

335 4. The surviving spouse of a member whose benefit
 336 terminated because of remarriage shall have the benefit
 337 reinstated beginning July 1, 1993, at an amount that would have
 338 been payable had the benefit not been terminated.

339 (i) ~~Effective July 1, 2016, and~~ Notwithstanding any
 340 provision in this chapter to the contrary, if a member in the
 341 Special Risk Class, other than a participant in the Deferred
 342 Retirement Option Program under subsection (13), is killed in
 343 the line of duty on or after July 1, ~~2002~~ 2013, the following
 344 benefits are payable in addition to the benefits provided in
 345 paragraph (d):

346 1. The surviving spouse may receive a monthly pension equal
 347 to one-half of the monthly salary being received by the member
 348 at the time of the member's death for the rest of the surviving

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349 spouse's lifetime or, if the member was vested, such surviving
 350 spouse may elect to receive a benefit as provided in paragraph
 351 (b). Benefits provided by this paragraph supersede any other
 352 distribution that may have been provided by the member's
 353 designation of beneficiary.

354 2. If the surviving spouse dies, the monthly payments that
 355 otherwise would have been payable to such surviving spouse shall
 356 be paid for the use and benefit of the member's child or
 357 children under 18 years of age and unmarried until the 18th
 358 birthday of the member's youngest child. Such monthly payments
 359 may be extended until the 25th birthday of the member's child if
 360 the child is unmarried and enrolled as a full-time student.

361 3. If the member leaves no surviving spouse but is survived
 362 by a child or children under 18 years of age, the benefits
 363 provided by subparagraph 1., normally payable to a surviving
 364 spouse, shall be paid for the use and benefit of such member's
 365 child or children under 18 years of age and unmarried until the
 366 18th birthday of the member's youngest child. Such monthly
 367 payments may be extended until the 25th birthday of any of the
 368 member's children if the child is unmarried and enrolled as a
 369 full-time student.

370 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

371 (c) Any person whose retirement is effective on or after
 372 July 1, 2010, or whose participation in the Deferred Retirement
 373 Option Program terminates on or after July 1, 2010, who is
 374 retired under this chapter, except under the disability
 375 retirement provisions of subsection (4) or as provided in s.
 376 121.053, may be reemployed by an employer that participates in a
 377 state-administered retirement system and receive retirement

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378 benefits and compensation from that employer. However, a person
 379 may not be reemployed by an employer participating in the
 380 Florida Retirement System before meeting the definition of
 381 termination in s. 121.021 and may not receive both a salary from
 382 the employer and retirement benefits for 6 calendar months after
 383 meeting the definition of termination. However, a DROP
 384 participant shall continue employment and receive a salary
 385 during the period of participation in the Deferred Retirement
 386 Option Program, as provided in subsection (13).

387 1. The reemployed retiree may not renew membership in the
 388 Florida Retirement System, except as provided in s. 121.122.

389 2. The employer shall pay retirement contributions in an
 390 amount equal to the unfunded actuarial liability portion of the
 391 employer contribution that would be required for active members
 392 of the Florida Retirement System in addition to the
 393 contributions required by s. 121.76.

394 3. A retiree initially reemployed in violation of this
 395 paragraph and an employer that employs or appoints such person
 396 are jointly and severally liable for reimbursement of any
 397 retirement benefits paid to the retirement trust fund from which
 398 the benefits were paid, including the Florida Retirement System
 399 Trust Fund and the Public Employee Optional Retirement Program
 400 Trust Fund, as appropriate. The employer must have a written
 401 statement from the employee that he or she is not retired from a
 402 state-administered retirement system. Retirement benefits shall
 403 remain suspended until repayment is made. Benefits suspended
 404 beyond the end of the retiree's 6-month reemployment limitation
 405 period shall apply toward the repayment of benefits received in
 406 violation of this paragraph.

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407 Section 5. Subsection (2) of section 121.122, Florida
408 Statutes, is amended, and subsections (3), (4), and (5) are
409 added to that section, to read:

410 121.122 Renewed membership in system.—

411 (2) Except as otherwise provided in subsections (3), (4),
412 and (5), a retiree of a state-administered retirement system who
413 is initially reemployed in a regularly established position on
414 or after July 1, 2010, may not be enrolled as a renewed member.

415 (3) A retiree of the investment plan, the State University
416 System Optional Retirement Program, the Senior Management
417 Service Optional Annuity Program, or the State Community College
418 System Optional Retirement Program who is reemployed with a
419 covered employer in a regularly established position on or after
420 July 1, 2017, shall be enrolled as a renewed member of the
421 investment plan unless employed in a position eligible for
422 participation in the State University System Optional Retirement
423 Program as provided in subsection (4) or the State Community
424 College System Optional Retirement Program as provided in
425 subsection (5). The renewed member must satisfy the vesting
426 requirements and other provisions of this chapter.

427 (a) A renewed member of the investment plan shall be
428 enrolled in one of the following membership classes:

429 1. In the Regular Class, if the position does not meet the
430 requirements for membership under s. 121.0515, s. 121.053, or s.
431 121.055.

432 2. In the Special Risk Class, if the position meets the
433 requirements of s. 121.0515.

434 3. In the Elected Officers' Class, if the position meets
435 the requirements of s. 121.053.

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436 4. In the Senior Management Service Class, if the position
437 meets the requirements of s. 121.055.

438 (b) Creditable service, including credit toward the retiree
439 health insurance subsidy provided in s. 112.363, does not accrue
440 for a renewed member's employment in a regularly established
441 position with a covered employer from July 1, 2010, through June
442 30, 2017.

443 (c) Employer and employee contributions, interest,
444 earnings, or any other funds may not be paid into a renewed
445 member's investment plan account for any employment in a
446 regularly established position with a covered employer on or
447 after July 1, 2010, through June 30, 2017, by the renewed member
448 or the employer on behalf of the renewed member.

449 (d) To be eligible to receive a retirement benefit, the
450 renewed member must satisfy the vesting requirements in s.
451 121.4501(6).

452 (e) The renewed member is ineligible to receive disability
453 benefits as provided in s. 121.091(4) or s. 121.591(2).

454 (f) The renewed member is subject to the limitations on
455 reemployment after retirement provided in s. 121.091(9), as
456 applicable.

457 (g) The renewed member must satisfy the requirements for
458 termination from employment provided in s. 121.021(39).

459 (h) Upon renewed membership or reemployment of a retiree,
460 the employer and the renewed member shall pay the applicable
461 employer and employee contributions required under ss. 112.363,
462 121.71, 121.74, and 121.76. The contributions are payable only
463 for employment and salary earned in a regularly established
464 position with a covered employer on or after July 1, 2017. The

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465 employer and employee contributions shall be transferred to the
 466 investment plan and placed in a default fund as designated by
 467 the state board. The renewed member may move the contributions
 468 once an account is activated in the investment plan.

469 (i) A renewed member who earns creditable service under the
 470 investment plan and who is not receiving the maximum health
 471 insurance subsidy provided in s. 112.363 is entitled to earn
 472 additional credit toward the subsidy. Such credit may be earned
 473 only for employment in a regularly established position with a
 474 covered employer on or after July 1, 2017. Any additional
 475 subsidy due because of additional credit may be received only at
 476 the time of paying the second career retirement benefit. The
 477 total health insurance subsidy received by a retiree receiving
 478 benefits from initial and renewed membership may not exceed the
 479 maximum allowed under s. 112.363.

480 (j) Notwithstanding s. 121.4501(4)(f), the renewed member
 481 is not eligible to elect membership in the pension plan.

482 (4) A retiree of the investment plan, the State University
 483 System Optional Retirement Program, the Senior Management
 484 Service Optional Annuity Program, or the State Community College
 485 System Optional Retirement Program who is reemployed on or after
 486 July 1, 2017, in a regularly established position eligible for
 487 participation in the State University System Optional Retirement
 488 Program shall become a renewed member of the optional retirement
 489 program. The renewed member must satisfy the vesting
 490 requirements and other provisions of this chapter. Once
 491 enrolled, a renewed member remains enrolled in the optional
 492 retirement program while employed in an eligible position for
 493 the optional retirement program. If employment in a different

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494 covered position results in the renewed member's enrollment in
 495 the investment plan, the renewed member is no longer eligible to
 496 participate in the optional retirement program unless employed
 497 in a mandatory position under s. 121.35.

498 (a) The renewed member is subject to the limitations on
 499 reemployment after retirement provided in s. 121.091(9), as
 500 applicable.

501 (b) The renewed member must satisfy the requirements for
 502 termination from employment provided in s. 121.021(39).

503 (c) Upon renewed membership or reemployment of a retiree,
 504 the employer and the renewed member shall pay the applicable
 505 employer and employee contributions required under s. 121.35.

506 (d) Employer and employee contributions, interest,
 507 earnings, or any other funds may not be paid into a renewed
 508 member's optional retirement program account for any employment
 509 in a regularly established position with a covered employer on or
 510 after July 1, 2010, through June 30, 2017, by the renewed member
 511 or the employer on behalf of the renewed member.

512 (e) Notwithstanding s. 121.4501(4)(f), the renewed member
 513 is not eligible to elect membership in the pension plan.

514 (5) A retiree of the investment plan, the State University
 515 System Optional Retirement Program, the Senior Management
 516 Service Optional Annuity Program, or the State Community College
 517 System Optional Retirement Program who is reemployed on or after
 518 July 1, 2017, in a regularly established position eligible for
 519 participation in the State Community College System Optional
 520 Retirement Program shall become a renewed member of the optional
 521 retirement program. The renewed member must satisfy the
 522 eligibility requirements of this chapter and s. 1012.875 for the

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523 optional retirement program. Once enrolled, a renewed member
 524 remains enrolled in the optional retirement program while
 525 employed in an eligible position for the optional retirement
 526 program. If employment in a different covered position results
 527 in the renewed member's enrollment in the investment plan, the
 528 renewed member is no longer eligible to participate in the
 529 optional retirement program.

530 (a) The renewed member is subject to the limitations on
 531 reemployment after retirement provided in s. 121.091(9), as
 532 applicable.

533 (b) The renewed member must satisfy the requirements for
 534 termination from employment provided in s. 121.021(39).

535 (c) Upon renewed membership or reemployment of a retiree,
 536 the employer and the renewed member shall pay the applicable
 537 employer and employee contributions required under ss.
 538 121.051(2)(c) and 1012.875.

539 (d) Employer and employee contributions, interest,
 540 earnings, or any other funds may not be paid into a renewed
 541 member's optional retirement program account for any employment
 542 in a regularly established position with a covered employer on
 543 or after July 1, 2010, through June 30, 2017, by the renewed
 544 member or the employer on behalf of the renewed member.

545 (e) Notwithstanding s. 121.4501(4)(f), the renewed member
 546 is not eligible to elect membership in the pension plan.

547 Section 6. Paragraphs (e) and (i) of subsection (2),
 548 paragraph (b) of subsection (3), subsection (4), paragraph (c)
 549 of subsection (5), and paragraphs (a) and (h) of subsection (10)
 550 of section 121.4501, Florida Statutes, are amended to read:

551 121.4501 Florida Retirement System Investment Plan.-

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552 (2) DEFINITIONS.—As used in this part, the term:

553 (e) "Eligible employee" means an officer or employee, as
 554 defined in s. 121.021, who:

555 1. Is a member of, or is eligible for membership in, the
 556 Florida Retirement System, including any renewed member of the
 557 Florida Retirement System initially enrolled before July 1,
 558 2010; ~~or~~

559 2. Participates in, or is eligible to participate in, the
 560 Senior Management Service Optional Annuity Program as
 561 established under s. 121.055(6), the State Community College
 562 System Optional Retirement Program as established under s.
 563 121.051(2)(c), or the State University System Optional
 564 Retirement Program established under s. 121.35; or

565 3. Is a retired member of the investment plan, the State
 566 University System Optional Retirement Program, the Senior
 567 Management Service Optional Annuity Program, or the State
 568 Community College System Optional Retirement Program who is
 569 reemployed in a regularly established position on or after July
 570 1, 2017, and enrolled as a renewed member as provided in s.
 571 121.122.

572 The term does not include any member participating in the
 573 Deferred Retirement Option Program established under s.
 574 121.091(13), a retiree of the pension plan who is reemployed in
 575 a regularly established position on or after July 1, 2010, a
 576 retiree of a state-administered retirement system initially
 577 reemployed in a regularly established position on or after July
 578 1, 2010, through June 30, 2017, or a mandatory participant of
 579 the State University System Optional Retirement Program

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581 established under s. 121.35.

582 (i) "Member" or "employee" means an eligible employee who
583 enrolls in, or who defaults into, the investment plan as
584 provided in subsection (4), a terminated Deferred Retirement
585 Option Program member as described in subsection (21), or a
586 beneficiary or alternate payee of a member or employee.

587 (3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

588 (b) Notwithstanding paragraph (a), an eligible employee who
589 elects to participate in, or who defaults into, the investment
590 plan and establishes one or more individual member accounts may
591 elect to transfer to the investment plan a sum representing the
592 present value of the employee's accumulated benefit obligation
593 under the pension plan, except as provided in paragraph (4) (b).
594 Upon transfer, all service credit earned under the pension plan
595 is nullified for purposes of entitlement to a future benefit
596 under the pension plan. A member may not transfer the
597 accumulated benefit obligation balance from the pension plan
598 after the time period for enrolling in the investment plan has
599 expired.

600 1. For purposes of this subsection, the present value of
601 the member's accumulated benefit obligation is based upon the
602 member's estimated creditable service and estimated average
603 final compensation under the pension plan, subject to
604 recomputation under subparagraph 2. For state employees, initial
605 estimates shall be based upon creditable service and average
606 final compensation as of midnight on June 30, 2002; for district
607 school board employees, initial estimates shall be based upon
608 creditable service and average final compensation as of midnight
609 on September 30, 2002; and for local government employees,

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610 initial estimates shall be based upon creditable service and
611 average final compensation as of midnight on December 31, 2002.
612 The dates specified are the "estimate date" for these employees.
613 The actuarial present value of the employee's accumulated
614 benefit obligation shall be based on the following:

615 a. The discount rate and other relevant actuarial
616 assumptions used to value the Florida Retirement System Trust
617 Fund at the time the amount to be transferred is determined,
618 consistent with the factors provided in sub-subparagraphs b. and
619 c.

620 b. A benefit commencement age, based on the member's
621 estimated creditable service as of the estimate date.

622 c. Except as provided under sub-subparagraph d., for a
623 member initially enrolled:

624 (I) Before July 1, 2011, the benefit commencement age is
625 the younger of the following, but may not be younger than the
626 member's age as of the estimate date:

627 (A) Age 62; or

628 (B) The age the member would attain if the member completed
629 30 years of service with an employer, assuming the member worked
630 continuously from the estimate date, and disregarding any
631 vesting requirement that would otherwise apply under the pension
632 plan.

633 (II) On or after July 1, 2011, the benefit commencement age
634 is the younger of the following, but may not be younger than the
635 member's age as of the estimate date:

636 (A) Age 65; or

637 (B) The age the member would attain if the member completed
638 33 years of service with an employer, assuming the member worked

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639 continuously from the estimate date, and disregarding any
640 vesting requirement that would otherwise apply under the pension
641 plan.

642 d. For members of the Special Risk Class and for members of
643 the Special Risk Administrative Support Class entitled to retain
644 the special risk normal retirement date:

645 (I) Initially enrolled before July 1, 2011, the benefit
646 commencement age is the younger of the following, but may not be
647 younger than the member's age as of the estimate date:

648 (A) Age 55; or

649 (B) The age the member would attain if the member completed
650 25 years of service with an employer, assuming the member worked
651 continuously from the estimate date, and disregarding any
652 vesting requirement that would otherwise apply under the pension
653 plan.

654 (II) Initially enrolled on or after July 1, 2011, the
655 benefit commencement age is the younger of the following, but
656 may not be younger than the member's age as of the estimate
657 date:

658 (A) Age 60; or

659 (B) The age the member would attain if the member completed
660 30 years of service with an employer, assuming the member worked
661 continuously from the estimate date, and disregarding any
662 vesting requirement that would otherwise apply under the pension
663 plan.

664 e. The calculation must disregard vesting requirements and
665 early retirement reduction factors that would otherwise apply
666 under the pension plan.

667 2. For each member who elects to transfer moneys from the

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668 pension plan to his or her account in the investment plan, the
669 division shall recompute the amount transferred under
670 subparagraph 1. within 60 days after the actual transfer of
671 funds based upon the member's actual creditable service and
672 actual final average compensation as of the initial date of
673 participation in the investment plan. If the recomputed amount
674 differs from the amount transferred by \$10 or more, the division
675 shall:

676 a. Transfer, or cause to be transferred, from the Florida
677 Retirement System Trust Fund to the member's account the excess,
678 if any, of the recomputed amount over the previously transferred
679 amount together with interest from the initial date of transfer
680 to the date of transfer under this subparagraph, based upon the
681 effective annual interest equal to the assumed return on the
682 actuarial investment which was used in the most recent actuarial
683 valuation of the system, compounded annually.

684 b. Transfer, or cause to be transferred, from the member's
685 account to the Florida Retirement System Trust Fund the excess,
686 if any, of the previously transferred amount over the recomputed
687 amount, together with interest from the initial date of transfer
688 to the date of transfer under this subparagraph, based upon 6
689 percent effective annual interest, compounded annually, pro rata
690 based on the member's allocation plan.

691 3. If contribution adjustments are made as a result of
692 employer errors or corrections, including plan corrections,
693 following recomputation of the amount transferred under
694 subparagraph 1., the member is entitled to the additional
695 contributions or is responsible for returning any excess
696 contributions resulting from the correction. However, a any

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697 return of such erroneous excess pretax contribution by the plan
698 must be made within the period allowed by the Internal Revenue
699 Service. The present value of the member's accumulated benefit
700 obligation ~~may shall~~ not be recalculated.

701 4. As directed by the member, the state board shall
702 transfer or cause to be transferred the appropriate amounts to
703 the designated accounts within 30 days after the effective date
704 of the member's participation in the investment plan unless the
705 major financial markets for securities available for a transfer
706 are seriously disrupted by an unforeseen event that causes the
707 suspension of trading on a any national securities exchange in
708 the country where the securities were issued. In that event, the
709 30-day period may be extended by a resolution of the state
710 board. Transfers are not commissionable or subject to other fees
711 and may be in the form of securities or cash, as determined by
712 the state board. Such securities are valued as of the date of
713 receipt in the member's account.

714 5. If the state board or the division receives notification
715 from the United States Internal Revenue Service that this
716 paragraph or any portion of this paragraph will cause the
717 retirement system, or a portion thereof, to be disqualified for
718 tax purposes under the Internal Revenue Code, the portion that
719 will cause the disqualification does not apply. Upon such
720 notice, the state board and the division shall notify the
721 presiding officers of the Legislature.

722 (4) PARTICIPATION; ENROLLMENT.—

723 (a)1. Effective June 1, 2002, through February 28, 2003, a
724 90-day election period was provided to each eligible employee
725 participating in the Florida Retirement System, preceded by a

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726 90-day education period, permitting each eligible employee to
727 elect membership in the investment plan. An employee who failed
728 to elect the investment plan during the election period remained
729 in the pension plan. An eligible employee who was employed in a
730 regularly established position during the election period was
731 granted the option to make one subsequent election, as provided
732 in paragraph (f). With respect to an eligible employee who did
733 not participate in the initial election period or who is
734 initially employed in a regularly established position after the
735 close of the initial election period but before January 1, 2018,
736 on June 1, 2002, by a state employer.

737 a. Any such employee may elect to participate in the
738 investment plan in lieu of retaining his or her membership in
739 the pension plan. The election must be made in writing or by
740 electronic means and must be filed with the third-party
741 administrator by August 31, 2002, or, in the case of an active
742 employee who is on a leave of absence on April 1, 2002, by the
743 last business day of the 5th month following the month the leave
744 of absence concludes. This election is irrevocable, except as
745 provided in paragraph (g). Upon making such election, the
746 employee shall be enrolled as a member of the investment plan,
747 the employee's membership in the Florida Retirement System is
748 governed by the provisions of this part, and the employee's
749 membership in the pension plan terminates. The employee's
750 enrollment in the investment plan is effective the first day of
751 the month for which a full month's employer contribution is made
752 to the investment plan.

753 b. Any such employee who fails to elect to participate in
754 the investment plan within the prescribed time period is deemed

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755 ~~to have elected to retain membership in the pension plan, and~~
 756 ~~the employee's option to elect to participate in the investment~~
 757 ~~plan is forfeited.~~

758 ~~2. With respect to employees who become eligible to~~
 759 ~~participate in the investment plan by reason of employment in a~~
 760 ~~regularly established position with a state employer commencing~~
 761 ~~after April 1, 2002.~~

762 ~~a. Any~~ such employee shall, by default, be enrolled in the
 763 pension plan at the commencement of employment, and may, by the
 764 last business day of the 5th month following the employee's
 765 month of hire, elect to participate in the investment plan. The
 766 employee's election must be made in writing or by electronic
 767 means and must be filed with the third-party administrator. The
 768 election to participate in the investment plan is irrevocable,
 769 except as provided in paragraph (f) ~~(g)~~.

770 ~~a. b.~~ If the employee files such election within the
 771 prescribed time period, enrollment in the investment plan is
 772 effective on the first day of employment. The retirement
 773 contributions paid through the month of the employee plan change
 774 shall be transferred to the investment program, and, effective
 775 the first day of the next month, the employer and employee must
 776 pay the applicable contributions based on the employee
 777 membership class in the program.

778 ~~b. e.~~ An employee who fails to elect to participate in the
 779 investment plan within the prescribed time period is deemed to
 780 have elected to retain membership in the pension plan, and the
 781 employee's option to elect to participate in the investment plan
 782 is forfeited.

783 ~~2.3.~~ With respect to employees who become eligible to

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784 participate in the investment plan pursuant to s.
 785 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
 786 participate in the investment plan in lieu of retaining his or
 787 her membership in the State Community College System Optional
 788 Retirement Program or the State University System Optional
 789 Retirement Program. The election must be made in writing or by
 790 electronic means and must be filed with the third-party
 791 administrator. This election is irrevocable, except as provided
 792 in paragraph (f) ~~(g)~~. Upon making such election, the employee
 793 shall be enrolled as a member in the investment plan, the
 794 employee's membership in the Florida Retirement System is
 795 governed by the provisions of this part, and the employee's
 796 participation in the State Community College System Optional
 797 Retirement Program or the State University System Optional
 798 Retirement Program terminates. The employee's enrollment in the
 799 investment plan is effective on the first day of the month for
 800 which a full month's employer and employee contribution is made
 801 to the investment plan.

802 (b)1. With respect to employees who become eligible to
 803 participate in the investment plan by reason of employment in a
 804 regularly established position commencing on or after January 1,
 805 2018, or who did not complete an election window before January
 806 1, 2018, any such employee shall be enrolled in the pension plan
 807 at the commencement of employment and may, by the last business
 808 day of the fifth month following the employee's month of hire,
 809 elect to participate in the pension plan or the investment plan.
 810 Eligible employees may make a plan election only if they are
 811 earning service credit in an employer-employee relationship
 812 consistent with s. 121.021(17)(b), excluding leaves of absence

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813 without pay.

814 2. The employee's election must be made in writing or by
 815 electronic means and must be filed with the third-party
 816 administrator. The election to participate in the pension plan
 817 or investment plan is irrevocable, except as provided in
 818 paragraph (f).

819 3. If the employee fails to make an election of the pension
 820 plan or investment plan within 5 months following the month of
 821 hire, the employee is deemed to have elected the investment plan
 822 and shall default into the investment plan retroactively to the
 823 employee's date of employment. The employee's option to
 824 participate in the pension plan is forfeited, except as provided
 825 in paragraph (f).

826 4. The amount of the employee and employer contributions
 827 paid through the date of default to the investment plan shall be
 828 transferred to the investment plan and shall be placed in a
 829 default fund as designated by the State Board of Administration.
 830 The employee may move the contributions once an account is
 831 activated in the investment plan.

832 5. Effective the first day of the month after an eligible
 833 employee makes a plan election of the pension plan or investment
 834 plan, or the first day of the month after default to the
 835 investment plan, the employee and employer shall pay the
 836 applicable contributions based on the employee membership class
 837 in the program.

838 ~~4. For purposes of this paragraph, "state employer" means~~
 839 ~~any agency, board, branch, commission, community college,~~
 840 ~~department, institution, institution of higher education, or~~
 841 ~~water management district of the state, which participates in~~

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842 ~~the Florida Retirement System for the benefit of certain~~
 843 ~~employees.~~

844 ~~(b)1. With respect to an eligible employee who is employed~~
 845 ~~in a regularly established position on September 1, 2002, by a~~
 846 ~~district school board employer.~~

847 ~~a. Any such employee may elect to participate in the~~
 848 ~~investment plan in lieu of retaining his or her membership in~~
 849 ~~the pension plan. The election must be made in writing or by~~
 850 ~~electronic means and must be filed with the third-party~~
 851 ~~administrator by November 30, or, in the case of an active~~
 852 ~~employee who is on a leave of absence on July 1, 2002, by the~~
 853 ~~last business day of the 5th month following the month the leave~~
 854 ~~of absence concludes. This election is irrevocable, except as~~
 855 ~~provided in paragraph (g). Upon making such election, the~~
 856 ~~employee shall be enrolled as a member of the investment plan,~~
 857 ~~the employee's membership in the Florida Retirement System is~~
 858 ~~governed by the provisions of this part, and the employee's~~
 859 ~~membership in the pension plan terminates. The employee's~~
 860 ~~enrollment in the investment plan is effective the first day of~~
 861 ~~the month for which a full month's employer contribution is made~~
 862 ~~to the investment program.~~

863 ~~b. Any such employee who fails to elect to participate in~~
 864 ~~the investment plan within the prescribed time period is deemed~~
 865 ~~to have elected to retain membership in the pension plan, and~~
 866 ~~the employee's option to elect to participate in the investment~~
 867 ~~plan is forfeited.~~

868 ~~2. With respect to employees who become eligible to~~
 869 ~~participate in the investment plan by reason of employment in a~~
 870 ~~regularly established position with a district school board~~

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871 ~~employer commencing after July 1, 2002:~~

872 ~~a. Any such employee shall, by default, be enrolled in the~~
 873 ~~pension plan at the commencement of employment, and may, by the~~
 874 ~~last business day of the 5th month following the employee's~~
 875 ~~month of hire, elect to participate in the investment plan. The~~
 876 ~~employee's election must be made in writing or by electronic~~
 877 ~~means and must be filed with the third-party administrator. The~~
 878 ~~election to participate in the investment plan is irrevocable,~~
 879 ~~except as provided in paragraph (g).~~

880 ~~b. If the employee files such election within the~~
 881 ~~prescribed time period, enrollment in the investment plan is~~
 882 ~~effective on the first day of employment. The employer~~
 883 ~~retirement contributions paid through the month of the employee~~
 884 ~~plan change shall be transferred to the investment plan, and,~~
 885 ~~effective the first day of the next month, the employer shall~~
 886 ~~pay the applicable contributions based on the employee~~
 887 ~~membership class in the investment plan.~~

888 ~~c. Any such employee who fails to elect to participate in~~
 889 ~~the investment plan within the prescribed time period is deemed~~
 890 ~~to have elected to retain membership in the pension plan, and~~
 891 ~~the employee's option to elect to participate in the investment~~
 892 ~~plan is forfeited.~~

893 ~~3. For purposes of this paragraph, "district school board~~
 894 ~~employer" means any district school board that participates in~~
 895 ~~the Florida Retirement System for the benefit of certain~~
 896 ~~employees, or a charter school or charter technical career~~
 897 ~~center that participates in the Florida Retirement System as~~
 898 ~~provided in s. 121.051(2)(d).~~

899 ~~(c)1. With respect to an eligible employee who is employed~~

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900 ~~in a regularly established position on December 1, 2002, by a~~
 901 ~~local employer:~~

902 ~~a. Any such employee may elect to participate in the~~
 903 ~~investment plan in lieu of retaining his or her membership in~~
 904 ~~the pension plan. The election must be made in writing or by~~
 905 ~~electronic means and must be filed with the third-party~~
 906 ~~administrator by February 28, 2003, or, in the case of an active~~
 907 ~~employee who is on a leave of absence on October 1, 2002, by the~~
 908 ~~last business day of the 5th month following the month the leave~~
 909 ~~of absence concludes. This election is irrevocable, except as~~
 910 ~~provided in paragraph (g). Upon making such election, the~~
 911 ~~employee shall be enrolled as a participant of the investment~~
 912 ~~plan, the employee's membership in the Florida Retirement System~~
 913 ~~is governed by the provisions of this part, and the employee's~~
 914 ~~membership in the pension plan terminates. The employee's~~
 915 ~~enrollment in the investment plan is effective the first day of~~
 916 ~~the month for which a full month's employer contribution is made~~
 917 ~~to the investment plan.~~

918 ~~b. Any such employee who fails to elect to participate in~~
 919 ~~the investment plan within the prescribed time period is deemed~~
 920 ~~to have elected to retain membership in the pension plan, and~~
 921 ~~the employee's option to elect to participate in the investment~~
 922 ~~plan is forfeited.~~

923 ~~2. With respect to employees who become eligible to~~
 924 ~~participate in the investment plan by reason of employment in a~~
 925 ~~regularly established position with a local employer commencing~~
 926 ~~after October 1, 2002:~~

927 ~~a. Any such employee shall, by default, be enrolled in the~~
 928 ~~pension plan at the commencement of employment, and may, by the~~

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929 ~~last business day of the 5th month following the employee's~~
 930 ~~month of hire, elect to participate in the investment plan. The~~
 931 ~~employee's election must be made in writing or by electronic~~
 932 ~~means and must be filed with the third-party administrator. The~~
 933 ~~election to participate in the investment plan is irrevocable,~~
 934 ~~except as provided in paragraph (g).~~

935 ~~b. If the employee files such election within the~~
 936 ~~prescribed time period, enrollment in the investment plan is~~
 937 ~~effective on the first day of employment. The employer~~
 938 ~~retirement contributions paid through the month of the employee~~
 939 ~~plan change shall be transferred to the investment plan, and,~~
 940 ~~effective the first day of the next month, the employer shall~~
 941 ~~pay the applicable contributions based on the employee~~
 942 ~~membership class in the investment plan.~~

943 ~~e. Any such employee who fails to elect to participate in~~
 944 ~~the investment plan within the prescribed time period is deemed~~
 945 ~~to have elected to retain membership in the pension plan, and~~
 946 ~~the employee's option to elect to participate in the investment~~
 947 ~~plan is forfeited.~~

948 ~~3. For purposes of this paragraph, "local employer" means~~
 949 ~~any employer not included in paragraph (a) or paragraph (b).~~

950 ~~(c)(d)~~ Contributions available for self-direction by a
 951 member who has not selected one or more specific investment
 952 products shall be allocated as prescribed by the state board.
 953 The third-party administrator shall notify the member at least
 954 quarterly that the member should take an affirmative action to
 955 make an asset allocation among the investment products.

956 ~~(d)(e)~~ On or after July 1, 2011, a member of the pension
 957 plan who obtains a refund of employee contributions retains his

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958 or her prior plan choice upon return to employment in a
 959 regularly established position with a participating employer.

960 (e)1.(f) A member of the investment plan who takes a
 961 distribution of any contributions from his or her investment
 962 plan account is considered a retiree. A retiree who is initially
 963 reemployed in a regularly established position on or after July
 964 1, 2010, through June 30, 2017, is not eligible for to be
 965 enrolled in renewed membership, except as provided in s.
 966 121.122.

967 2. A retiree who is reemployed on or after July 1, 2017,
 968 shall be enrolled as a renewed member as provided in s. 121.122.

969 ~~(f)(g)~~ After the period during which an eligible employee
 970 had the choice to elect the pension plan or the investment plan,
 971 or the month following the receipt of the eligible employee's
 972 plan election, if sooner, the employee shall have one
 973 opportunity, at the employee's discretion, to choose to move
 974 from the pension plan to the investment plan or from the
 975 investment plan to the pension plan. Eligible employees may
 976 elect to move between plans only if they are earning service
 977 credit in an employer-employee relationship consistent with s.
 978 121.021(17)(b), excluding leaves of absence without pay.
 979 Effective July 1, 2005, such elections are effective on the
 980 first day of the month following the receipt of the election by
 981 the third-party administrator and are not subject to the
 982 requirements regarding an employer-employee relationship or
 983 receipt of contributions for the eligible employee in the
 984 effective month, except when the election is received by the
 985 third-party administrator. This paragraph is contingent upon
 986 approval by the Internal Revenue Service.

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987 1. If the employee chooses to move to the investment plan,
 988 the provisions of subsection (3) govern the transfer.

989 2. If the employee chooses to move to the pension plan, the
 990 employee must transfer from his or her investment plan account,
 991 and from other employee moneys as necessary, a sum representing
 992 the present value of that employee's accumulated benefit
 993 obligation immediately following the time of such movement,
 994 determined assuming that attained service equals the sum of
 995 service in the pension plan and service in the investment plan.
 996 Benefit commencement occurs on the first date the employee is
 997 eligible for unreduced benefits, using the discount rate and
 998 other relevant actuarial assumptions that were used to value the
 999 pension plan liabilities in the most recent actuarial valuation.

1000 For any employee who, at the time of the second election,
 1001 already maintains an accrued benefit amount in the pension plan,
 1002 the then-present value of the accrued benefit is deemed part of
 1003 the required transfer amount. The division must ensure that the
 1004 transfer sum is prepared using a formula and methodology
 1005 certified by an enrolled actuary. A refund of any employee
 1006 contributions or additional member payments made which exceed
 1007 the employee contributions that would have accrued had the
 1008 member remained in the pension plan and not transferred to the
 1009 investment plan is not permitted.

1010 3. Notwithstanding subparagraph 2., an employee who chooses
 1011 to move to the pension plan and who became eligible to
 1012 participate in the investment plan by reason of employment in a
 1013 regularly established position with a state employer after June
 1014 1, 2002; a district school board employer after September 1,
 1015 2002; or a local employer after December 1, 2002, must transfer

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1016 from his or her investment plan account, and from other employee
 1017 moneys as necessary, a sum representing the employee's actuarial
 1018 accrued liability. A refund of any employee contributions or
 1019 additional ~~member participant~~ payments made which exceed the
 1020 employee contributions that would have accrued had the member
 1021 remained in the pension plan and not transferred to the
 1022 investment plan is not permitted.

1023 4. An employee's ability to transfer from the pension plan
 1024 to the investment plan pursuant to paragraphs (a) and (b) ~~(a)-~~
 1025 ~~(d)~~, and the ability of a current employee to have an option to
 1026 later transfer back into the pension plan under subparagraph 2.,
 1027 shall be deemed a significant system amendment. Pursuant to s.
 1028 121.031(4), any resulting unfunded liability arising from actual
 1029 original transfers from the pension plan to the investment plan
 1030 must be amortized within 30 plan years as a separate unfunded
 1031 actuarial base independent of the reserve stabilization
 1032 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
 1033 direct amortization payment may not be calculated for this base.
 1034 During this 25-year period, the separate base shall be used to
 1035 offset the impact of employees exercising their second program
 1036 election under this paragraph. The actuarial funded status of
 1037 the pension plan will not be affected by such second program
 1038 elections in any significant manner, after due recognition of
 1039 the separate unfunded actuarial base. Following the initial 25-
 1040 year period, any remaining balance of the original separate base
 1041 shall be amortized over the remaining 5 years of the required
 1042 30-year amortization period.

1043 5. If the employee chooses to transfer from the investment
 1044 plan to the pension plan and retains an excess account balance

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1045 in the investment plan after satisfying the buy-in requirements
 1046 under this paragraph, the excess may not be distributed until
 1047 the member retires from the pension plan. The excess account
 1048 balance may be rolled over to the pension plan and used to
 1049 purchase service credit or upgrade creditable service in the
 1050 pension plan.

1051 (5) CONTRIBUTIONS.—

1052 (c) The state board, acting as plan fiduciary, must ensure
 1053 that all plan assets are held in a trust, pursuant to s. 401 of
 1054 the Internal Revenue Code. The fiduciary must ensure that such
 1055 contributions are allocated as follows:

1056 1. The employer and employee contribution portion earmarked
 1057 for member accounts shall be used to purchase interests in the
 1058 appropriate investment vehicles as specified by the member, or
 1059 in accordance with paragraph (4) (c) ~~(4) (d)~~.

1060 2. The employer contribution portion earmarked for
 1061 administrative and educational expenses shall be transferred to
 1062 the state board's Administrative Trust Fund.

1063 3. The employer contribution portion earmarked for
 1064 disability benefits and line-of-duty death benefits shall be
 1065 transferred to the Florida Retirement System Trust Fund.

1066 (10) EDUCATION COMPONENT.—

1067 (a) The state board, in coordination with the department,
 1068 shall provide for an education component for eligible employees
 1069 ~~system members~~ in a manner consistent with ~~the provisions of~~
 1070 ~~this subsection section. The education component must be~~
 1071 ~~available to eligible employees at least 90 days prior to the~~
 1072 ~~beginning date of the election period for the employees of the~~
 1073 ~~respective types of employers.~~

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1074 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
 1075 ~~System employers have an obligation to regularly communicate the~~
 1076 ~~existence of the two Florida Retirement System plans and the~~
 1077 ~~plan choice in the natural course of administering their~~
 1078 ~~personnel functions, using the educational materials supplied by~~
 1079 ~~the state board and the Department of Management Services.~~

1080 Section 7. Subsection (4) of section 121.591, Florida
 1081 Statutes, is amended to read:

1082 121.591 Payment of benefits.—Benefits may not be paid under
 1083 the Florida Retirement System Investment Plan unless the member
 1084 has terminated employment as provided in s. 121.021(39) (a) or is
 1085 deceased and a proper application has been filed as prescribed
 1086 by the state board or the department. Benefits, including
 1087 employee contributions, are not payable under the investment
 1088 plan for employee hardships, unforeseeable emergencies, loans,
 1089 medical expenses, educational expenses, purchase of a principal
 1090 residence, payments necessary to prevent eviction or foreclosure
 1091 on an employee's principal residence, or any other reason except
 1092 a requested distribution for retirement, a mandatory de minimis
 1093 distribution authorized by the administrator, or a required
 1094 minimum distribution provided pursuant to the Internal Revenue
 1095 Code. The state board or department, as appropriate, may cancel
 1096 an application for retirement benefits if the member or
 1097 beneficiary fails to timely provide the information and
 1098 documents required by this chapter and the rules of the state
 1099 board and department. In accordance with their respective
 1100 responsibilities, the state board and the department shall adopt
 1101 rules establishing procedures for application for retirement
 1102 benefits and for the cancellation of such application if the

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1103 required information or documents are not received. The state
 1104 board and the department, as appropriate, are authorized to cash
 1105 out a de minimis account of a member who has been terminated
 1106 from Florida Retirement System covered employment for a minimum
 1107 of 6 calendar months. A de minimis account is an account
 1108 containing employer and employee contributions and accumulated
 1109 earnings of not more than \$5,000 made under the provisions of
 1110 this chapter. Such cash-out must be a complete lump-sum
 1111 liquidation of the account balance, subject to the provisions of
 1112 the Internal Revenue Code, or a lump-sum direct rollover
 1113 distribution paid directly to the custodian of an eligible
 1114 retirement plan, as defined by the Internal Revenue Code, on
 1115 behalf of the member. Any nonvested accumulations and associated
 1116 service credit, including amounts transferred to the suspense
 1117 account of the Florida Retirement System Investment Plan Trust
 1118 Fund authorized under s. 121.4501(6), shall be forfeited upon
 1119 payment of any vested benefit to a member or beneficiary, except
 1120 for de minimis distributions or minimum required distributions
 1121 as provided under this section. If any financial instrument
 1122 issued for the payment of retirement benefits under this section
 1123 is not presented for payment within 180 days after the last day
 1124 of the month in which it was originally issued, the third-party
 1125 administrator or other duly authorized agent of the state board
 1126 shall cancel the instrument and credit the amount of the
 1127 instrument to the suspense account of the Florida Retirement
 1128 System Investment Plan Trust Fund authorized under s.
 1129 121.4501(6). Any amounts transferred to the suspense account are
 1130 payable upon a proper application, not to include earnings
 1131 thereon, as provided in this section, within 10 years after the

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1132 last day of the month in which the instrument was originally
 1133 issued, after which time such amounts and any earnings
 1134 attributable to employer contributions shall be forfeited. Any
 1135 forfeited amounts are assets of the trust fund and are not
 1136 subject to chapter 717.

1137 (4) LINE-OF-DUTY DEATH BENEFITS FOR INVESTMENT PLAN SPECIAL
 1138 ~~RISK-CLASS MEMBERS~~.—Benefits are provided under this subsection
 1139 to the spouse and child or children of members in the investment
 1140 plan Special Risk Class when such members are killed in the line
 1141 of duty and are payable in lieu of the benefits that would
 1142 otherwise be payable under subsection (1) or subsection (3).
 1143 Benefits provided by this subsection supersede any other
 1144 distribution that may have been provided by the member's
 1145 designation of beneficiary. Such benefits must be funded from
 1146 employer contributions made under s. 121.571, transferred
 1147 employee contributions and funds accumulated pursuant to
 1148 paragraph (a), and interest and earnings thereon.

1149 (a) *Transfer of funds*.—To qualify to receive monthly
 1150 benefits under this subsection:

1151 1. All moneys accumulated in the member's account,
 1152 including vested and nonvested accumulations as described in s.
 1153 121.4501(6), must be transferred from such individual accounts
 1154 to the division for deposit in the survivor benefit account of
 1155 the Florida Retirement System Trust Fund. Moneys in the survivor
 1156 benefit account must be accounted for separately. Earnings must
 1157 be credited on an annual basis for amounts held in the survivor
 1158 benefit account of the Florida Retirement System Trust Fund
 1159 based on actual earnings of the trust fund.

1160 2. If the member has retained retirement credit earned

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1161 under the pension plan as provided in s. 121.4501(3), a sum
 1162 representing the actuarial present value of such credit within
 1163 the Florida Retirement System Trust Fund shall be transferred by
 1164 the division from the pension plan to the survivor benefit
 1165 retirement program as implemented under this subsection and
 1166 shall be deposited in the survivor benefit account of the trust
 1167 fund.

1168 (b) *Survivor retirement; entitlement.*—An investment plan
 1169 member who is ~~in the Special Risk Class at the time the member~~
 1170 ~~is~~ killed in the line of duty on or after July 1, ~~2002~~ 2013,
 1171 regardless of length of creditable service, may have survivor
 1172 benefits paid as provided in s. 121.091(7)(d) and (i) to:

- 1173 1. The surviving spouse for the spouse's lifetime; or
- 1174 2. If there is no surviving spouse or the surviving spouse
 1175 dies, the member's child or children under 18 years of age and
 1176 unmarried until the 18th birthday of the member's youngest
 1177 child. Such payments may be extended until the 25th birthday of
 1178 any child of the member if the child is unmarried and enrolled
 1179 as a full-time student as provided in s. 121.091(7)(d) and (i).

1180 (c) *Survivor benefit retirement effective date.*—

1181 1. The effective retirement date for the surviving spouse
 1182 or eligible child of a Special Risk Class member who is killed
 1183 in the line of duty is:

- 1184 ~~a.1-~~ The first day of the month following the member's
 1185 death if the member dies on or after July 1, 2016.
- 1186 ~~b.2-~~ July 1, 2016, for a member of the Special Risk Class
 1187 when killed in the line of duty on or after July 1, 2013, but
 1188 before July 1, 2016, if the application is received before July
 1189 1, 2016; or the first day of the month following the receipt of

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1190 such application.

1191 2. Except as provided in subparagraph 1., the effective
 1192 retirement date for the surviving spouse or eligible child of an
 1193 investment plan member who is killed in the line of duty is:

1194 a. The first day of the month following the member's death
 1195 if the member dies on or after July 1, 2017.

1196 b. July 1, 2017, if the member is killed in the line of
 1197 duty on or after July 1, 2002, but before July 1, 2017, if the
 1198 application is received before July 1, 2017; or the first day of
 1199 the month following the receipt of such application.

1200
 1201 If the investment plan account balance has already been paid out
 1202 to the surviving spouse or the eligible unmarried dependent
 1203 child or children, the benefit payable shall be actuarially
 1204 reduced by the amount of the payout.

1205 (d) *Line-of-duty death benefit.*—

1206 1. The following individuals are eligible to receive a
 1207 retirement benefit under s. 121.091(7)(d) and (i) if the
 1208 member's account balance is surrendered and an application is
 1209 received and approved:

1210 a. The surviving spouse.

1211 b. If there is no surviving spouse or the surviving spouse
 1212 dies, the member's child or children under 18 years of age and
 1213 unmarried until the 18th birthday of the member's youngest
 1214 child, or until the 25th birthday of the member's child if the
 1215 child is unmarried and enrolled as a full-time student.

1216 2. Such surviving spouse or such child or children shall
 1217 receive a monthly survivor benefit that begins accruing on the
 1218 first day of the month of survivor benefit retirement, as

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1219 approved by the division, and is payable on the last day of that
 1220 month and each month thereafter during the surviving spouse's
 1221 lifetime or on behalf of the unmarried children of the member
 1222 until the 18th birthday of the youngest child, or until the 25th
 1223 birthday of any of the member's unmarried children who are
 1224 enrolled as full-time students. Survivor benefits must be paid
 1225 out of the survivor benefit account of the Florida Retirement
 1226 System Trust Fund established under this subsection.

1227

1228 If the investment plan account balance has already been paid out
 1229 to the surviving spouse or the eligible unmarried dependent
 1230 child or children, the benefit payable shall be actuarially
 1231 reduced by the amount of the payout.

1232 (e) *Computation of survivor benefit retirement benefit.*—The
 1233 amount of each monthly payment must be calculated as provided
 1234 under s. 121.091(7)(d) and (i).

1235 (f) *Death of the surviving spouse or children.*—

1236 1. Upon the death of a surviving spouse, the monthly
 1237 benefits shall be paid through the last day of the month of
 1238 death and shall terminate or be paid on behalf of the unmarried
 1239 child or children until the 18th birthday of the youngest child,
 1240 or the 25th birthday of any of the member's unmarried children
 1241 who are enrolled as full-time students.

1242 2. If the surviving spouse dies and the benefits are being
 1243 paid on behalf of the member's unmarried children as provided in
 1244 subparagraph 1., benefits shall be paid through the last day of
 1245 the month until the later of the month the youngest child
 1246 reaches his or her 18th birthday, the month of the 25th birthday
 1247 of any of the member's unmarried children enrolled as full-time

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1248 students, or the month of the death of the youngest child.

1249 Section 8. Section 121.5912, Florida Statutes, is amended
 1250 to read:

1251 121.5912 Survivor benefit retirement program; qualified
 1252 status; rulemaking authority.—It is the intent of the
 1253 Legislature that the survivor benefit retirement program for
 1254 ~~Special Risk Class~~ members of the Florida Retirement System
 1255 Investment Plan meet all applicable requirements for a qualified
 1256 plan. If the state board or the division receives notification
 1257 from the Internal Revenue Service that this program or any
 1258 portion of this program will cause the retirement system, or any
 1259 portion thereof, to be disqualified for tax purposes under the
 1260 Internal Revenue Code, the portion that will cause the
 1261 disqualification does not apply. Upon such notice, the state
 1262 board or the division shall notify the presiding officers of the
 1263 Legislature. The state board and the department may adopt any
 1264 rules necessary to maintain the qualified status of the survivor
 1265 benefit retirement program.

1266 Section 9. Subsections (1) and (3) of section 121.735,
 1267 Florida Statutes, are amended to read:

1268 121.735 Allocations for member line-of-duty death benefits;
 1269 percentage amounts.—

1270 (1) The allocations established in subsection (3) shall be
 1271 used to provide line-of-duty death benefit coverage for ~~Special~~
 1272 ~~Risk Class~~ members in the investment plan and shall be
 1273 transferred monthly by the division from the Florida Retirement
 1274 System Contributions Clearing Trust Fund to the survivor benefit
 1275 account of the Florida Retirement System Trust Fund.

1276 (3) Effective July 1, 2017 ~~2016~~, allocations from the

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1277 Florida Retirement System Contributions Clearing Trust Fund to
 1278 provide line-of-duty death benefits for ~~Special Risk Class~~
 1279 members in the investment plan and to offset the costs of
 1280 administering said coverage, are as follows:

Membership Class	Percentage of Gross Compensation
1282 <u>Regular Class</u>	0.05%
1284 <u>Special Risk Class</u>	<u>1.15%</u> 0.82%
1285 <u>Special Risk Administrative Support Class</u>	0.03%
1286 <u>Elected Officers' Class-- Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	0.15%
1287 <u>Elected Officers' Class-- Justices, Judges</u>	0.09%
1288 <u>Elected Officers' Class-- County Elected Officers</u>	0.20%

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1289 Senior Management Service
 1290 Class 0.05%

1291 Section 10. The Legislature shall review the current status
 1292 of research programs, funded wholly or in part by the General
 1293 Appropriations Act, which study the incidence of cancer in
 1294 firefighters. This review must be conducted before the convening
 1295 of the 2018 Regular Session of the Legislature to determine
 1296 whether any further statutory changes are necessary as a result
 1297 of the enactment of s. 112.1816, Florida Statutes, by this act.

1298 Section 11. (1) In order to fund the benefit changes
 1299 provided in this act, the required employer contribution rate
 1300 for members of the Florida Retirement System established in s.
 1301 121.71(4), Florida Statutes, are adjusted as follows:

- 1302 (a) The Regular Class is increased by 0.01 percentage
 1303 point.
- 1304 (b) The Special Risk Class is increased by 0.06 percentage
 1305 point.
- 1306 (c) The Special Risk Administrative Support Class is
 1307 increased by 0.02 percentage point.
- 1308 (d) The Elected Officers' Class--Legislators, Governor, Lt.
 1309 Governor, Cabinet Officers, State Attorneys, and Public
 1310 Defenders is increased by 0.04 percentage point.
- 1311 (e) The Elected Officers' Class--Justices, Judges is
 1312 increased by 0.01 percentage point.
- 1313 (f) The Elected Officers' Class--County Elected Officers is
 1314 increased by 0.06 percentage point.
- 1315 (g) The Senior Management Service Class is increased by

585-04040A-17

20177030pb

1316 0.01 percentage point.

1317 (2) In order to fund the benefit changes provided in this
1318 act, the required employer contribution rate for the unfunded
1319 actuarial liability of the Florida Retirement System established
1320 in s. 121.71(5), Florida Statutes, for the Special Risk Class is
1321 increased by 0.12 percentage point.

1322 (3) The adjustments provided in subsections (1) and (2) are
1323 in addition to any other changes to such contribution rates
1324 which may be enacted into law to take effect on July 1, 2017.
1325 The Division of Law Revision and Information is directed to
1326 adjust accordingly the contribution rates provided in s. 121.71,
1327 Florida Statutes.

1328 Section 12. The Legislature finds that a proper and
1329 legitimate state purpose is served when employees and retirees
1330 of the state and its political subdivisions, and the dependents,
1331 survivors, and beneficiaries of such employees and retirees, are
1332 extended the basic protections afforded by governmental
1333 retirement systems. These persons must be provided benefits that
1334 are fair and adequate and that are managed, administered, and
1335 funded in an actuarially sound manner, as required by s. 14,
1336 Article X of the State Constitution and part VII of chapter 112,
1337 Florida Statutes. Therefore, the Legislature determines and
1338 declares that this act fulfills an important state interest.

1339 Section 13. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-24-17

Meeting Date

7030

Bill Number (if applicable)

Topic FRS

Amendment Barcode (if applicable)

Name MARSHALL OGLETREE

Job Title Exec. Director

Address 115 N. Calhoun St.

Phone 850-224-8220

Street

Tallahassee FL 32301

City

State

Zip

Email marshell.ogletree@floridaca.org

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

~~Depend on amendments~~

if amendment 267328 passes

Representing United Faculty of Florida

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 24

Meeting Date

SB 7030

Bill Number (if applicable)

435512

Amendment Barcode (if applicable)

Topic FRS

Name Kevin Watson

Job Title Lobbyist

Address 213 S. Adams St

Phone 850-224-2078

Street

Tallahassee FL 32301

City

State

Zip

Email kevin.watson@floridaca.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Education Association

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 24

Meeting Date

SB 7030

Bill Number (if applicable)

276328

Amendment Barcode (if applicable)

Topic FRS

Name Kevin Watson

Job Title Lobbyist

Address 213 S. Adam St

Street

Phone 450-224-2078

Tallahassee FL 32301

City

State

Zip

Email kevin.watson@floridaea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Education Association

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

7030

Bill Number (if applicable)

276 238

Amendment Barcode (if applicable)

Topic FRS

Name Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone 850-224-6926

Tallahassee
City

FL
State

32301
Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-24-17
Meeting Date

7030
Bill Number (if applicable)

Topic FRS.

Amendment Barcode (if applicable)

Name Michael Buchler

Job Title Assoc. Professor

Address 2069 Wildridge Dr.
Street

Phone 850-562-2733

Tallahassee FL 32303
City State Zip

Email michael.buchler@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-24-17
Meeting Date

7030
Bill Number (if applicable)

Topic Retirement

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee

City

FL

State

Zip

Email ahosek@afpq.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

7050

Bill Number (if applicable)

Topic Retirement

Amendment Barcode (if applicable)

Name MARCUS DIXON

Job Title Political Director

Address 2881 Corporate Way

Phone (305) 720-1627

Street

Miramar

City

FL

State

33025

Zip

Email Marcus.Dixon@seiufl.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SEIU Florida

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

7030
Bill Number (if applicable)

Topic Penisial

Amendment Barcode (if applicable)

Name DENNIS STRANGE

Job Title CAPTAIN

Address 2500 West Colonia

Phone 407-254-7000

Street

Del

Fl

State

32804

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ORANGE County Sheriff's Office

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17

Meeting Date

7030

Bill Number (if applicable)

Topic FRS

Amendment Barcode (if applicable)

Name Dr Jennifer Proffitt

Job Title President, United Faculty of Florida

Address 115 N. Calhoun St. Ste 6

Phone 850 224 8220

Street

Tallahassee FL 32301

City

State

Zip

Email jennifer.proffitt@floridaea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

SPB 7030
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Bronough
Street

Phone 222 9684

Tall FL 32301
City State Zip

Email Kconnoflcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/25

Meeting Date

PSB

7030

Bill Number (if applicable)

Topic PSB 7030 - Retirement

Amendment Barcode (if applicable)

Name LWON EDSON

Job Title Retired educator

Address 1841 Myrick Rd

Phone 850-385-3196

Tallahassee FL 32303
City State Zip

Email edsonl@netfally.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

*Against changes to the default

Representing Florida Retired Educators Association

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/24/17
Meeting Date

Topic Retirement Bill Number 7030
(if applicable)
Name Jim Tolley Amendment Barcode _____
(if applicable)
Job Title President
Address 343 West Madison St. Phone 850 224 7333
Street
Tallahassee FL 32301 E-mail Jimt@FPFP.org
City State Zip

Speaking: For Against Information

Representing Florida Professional Firefighters

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.

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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)

4/24/2017

Meeting Date

PCB 7030

Bill Number (if applicable)

Topic Retirement

Amendment Barcode (if applicable)

Name Dr. Ana Ciereszko

Job Title Legislative Director

Address 1420 N. Kendall Drive #107

Phone 305 321 0016

Street

Miami FL 33176

Email

City

State

Zip

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against []

(The Chair will read this information into the record.)

Representing United Faculty of Miami Dade College

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

Lobbyist registered with Legislature: Yes [x] 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.

CourtSmart Tag Report

Room: SB 401

Case:

Caption: Senate Governmental Oversight and Accountability Committee

Type:

Judge:

Started: 4/24/2017 3:10:45 PM

Ends: 4/24/2017 4:29:49 PM

Length: 01:19:05

3:10:45 PM Meeting called to order- Roll call
3:11:19 PM Quorum
3:11:29 PM Tab 1 SB 856 by Broxson
3:12:28 PM Amendment barcode 700896
3:13:26 PM Bill as amended
3:13:30 PM Senator Stewart question
3:13:43 PM Senator Rader question
3:18:48 PM Audience waving in opposition
3:20:16 PM Lynda Russell, Florida Education Association recognized
3:23:23 PM Rich Templin, Florida AFL-CIO recognized
3:26:29 PM Bob Harris, PAEC recognized
3:28:43 PM Senator Rader
3:29:38 PM Roll call
3:30:17 PM SB 856 favorable as a committee substitute
3:30:36 PM Tab 2 SB 1640 by Broxson
3:30:51 PM Strike all amendment barcode 831350
3:31:19 PM Amendment withdrawn
3:31:23 PM Back on bill
3:31:34 PM Roll Call
3:31:47 PM SB 1640 favorable
3:32:10 PM Tab 3 CS/SB 1768 by Lee
3:33:15 PM Amendment barcode 747482
3:33:24 PM Amendment adopted
3:34:01 PM Back on bill as amended
3:34:03 PM Roll Call
3:34:14 PM CS/SB 1768 favorable as a committee substitute
3:34:36 PM Gavel turned to Senator Galvano
3:34:52 PM Tab 4 HB 7007
3:35:15 PM Senator Lee
3:39:09 PM Amendment barcode 691160
3:40:27 PM Amendment adopted
3:40:29 PM Amendment barcode 611870
3:40:47 PM Amendment adopted
3:40:56 PM Amendment barcode 612856
3:41:03 PM Amendment adopted
3:41:25 PM Amendment barcode 969732
3:41:52 PM Amendment adopted
3:42:17 PM Amendment barcode 964332
3:42:46 PM Amendment adopted
3:42:51 PM Amendment barcode 538286
3:43:15 PM Amendment adopted
3:43:23 PM Amendment barcode 203288
3:43:52 PM Amendment barcode 919800
3:44:11 PM Amendment adopted
3:44:37 PM Bill as amended
3:44:42 PM Senator Rader question
3:45:33 PM Senator Stewart question
3:46:57 PM Rich Templin, Florida AFC-CIO recognized
3:52:02 PM Matt Puckett, Florida Police Benevolent Association recognized
3:53:27 PM Marshall Ogletree, United Faculty of Florida recognized
3:54:53 PM Michael Buchler, FSU Professor recognized
3:55:06 PM Dr. Jennifer Proffitt, United Faculty of Florida recognized

3:57:23 PM Senator Galvano
3:58:12 PM Senator Stewart
3:58:52 PM Senator Baxley
3:59:47 PM Senator Lee
4:01:49 PM Roll Call
4:02:49 PM HB 7007 favorable
4:03:10 PM Motion by Senator Rouson
4:03:51 PM Tab 5 SPB 7030 by Baxley
4:05:18 PM Amendment barcode 276328
4:06:42 PM Rich Templin, AFL-CIO recognized
4:12:05 PM Kevin Watson, Florida Education Association recognized
4:15:59 PM Senator Baxley
4:19:12 PM Senator Rouson
4:20:43 PM Amendment not adopted
4:21:12 PM Amendment barcode 435512
4:21:22 PM Kevin Watson, Florida Education Association
4:22:22 PM Senator Rouson
4:23:22 PM Amendment not adopted
4:23:51 PM Back on bill
4:23:53 PM Senator Rader
4:25:24 PM Debate
4:26:47 PM Senator Rader
4:27:05 PM Senator Stewart
4:27:13 PM Roll Call
4:28:11 PM SPB 7030 favorable as a committee bill
4:28:39 PM Senator Rouson recognized
4:28:44 PM Meeting Adjourned