

By the Committee on Governmental Operations and  
Representatives Posey, Ball, A. Greene, Hafner and Fasano

1                                   A bill to be entitled  
2           An act relating to the state group insurance  
3           program; amending s. 20.22, F.S.; clarifying  
4           provisions relating to operation of the  
5           Division of State Group Insurance; modifying  
6           the role of the director of the Division of  
7           State Group Insurance and division staff with  
8           respect to the Florida State Group Insurance  
9           Council; specifying responsibilities of the  
10          director; prohibiting the council from  
11          terminating contracts; removing a limitation on  
12          the council's participation in certain  
13          activities; amending s. 110.123, F.S.; revising  
14          definitions; exempting the director and  
15          assistant director from the Career Service  
16          System; authorizing the director to exempt  
17          certain positions from the Career Service  
18          System under certain circumstances; clarifying  
19          and correcting references; clarifying  
20          requirements for contracting with health  
21          maintenance organizations; deleting authority  
22          to negotiate with specialty psychiatric  
23          hospitals; requiring HMOs to provide certain  
24          information to the division under certain  
25          circumstances; providing for the establishment  
26          of certain comprehensive package of insurance  
27          benefits; updating provisions relating to  
28          agency payment of premiums for certain  
29          employees injured or killed in the line of  
30          duty; providing coverage in the state group  
31          health insurance plan for legislative members

1 and employees; amending s. 110.12315, F.S.;  
2 revising, clarifying, and reorganizing  
3 provisions relating to the state employees'  
4 prescription drug program; amending ss.  
5 110.1232, 110.1234, 110.161, and 215.94, F.S.;  
6 clarifying provisions and correcting certain  
7 references to conform; amending s. 110.1238,  
8 F.S.; modifying the refund cap; amending s.  
9 110.205, F.S.; exempting certain assistant  
10 division directors from the Career Service  
11 System; amending s. 121.025, F.S.; exempting  
12 the director and assistant director from the  
13 Career Service System; authorizing the director  
14 to exempt certain positions from the Career  
15 Service System under certain circumstances;  
16 providing an effective date.

17

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

19

20 Section 1. Paragraphs (a), (c), and (e) of subsection  
21 (5) of section 20.22, Florida Statutes, are amended to read:

22 20.22 Department of Management Services.--There is  
23 created a Department of Management Services.

24 (5)(a) The Florida State Group Insurance Council is  
25 created within the Division of State Group Insurance for the  
26 purpose of providing joint and coordinated oversight of the  
27 operation and administration of the state group insurance  
28 program. The council shall consist of the state budget  
29 director or his or her designee; an individual from the  
30 private sector with an extensive health administration  
31 background, appointed by the Governor; a member of the Florida

1 Senate, appointed by the President of the Senate; a member of  
2 the Florida House of Representatives, appointed by the Speaker  
3 of the House of Representatives; a representative of the State  
4 University System, appointed by the Board of Regents; the  
5 State Insurance Commissioner or his or her designee; the  
6 director of the Division of Retirement or his or her designee;  
7 and two representatives of employees and retirees, appointed  
8 by the Governor. Members of the council appointed by the  
9 Governor shall be appointed to serve terms of 4 years each.  
10 Each member of the council shall serve until a successor is  
11 appointed. ~~Additionally,~~The director of the Division of  
12 State Group Employee Insurance shall not be a ~~nonvoting~~ member  
13 of the council but shall assume responsibility for ensuring  
14 provision of administrative, analytical, and technical support  
15 to the council.

16 (c) The council is assigned to the Division of State  
17 Group Insurance for administrative and fiscal accountability  
18 purposes, but the council ~~and its staff~~ shall otherwise  
19 function independently of the control and direction of the  
20 division. The division ~~of State Group Insurance~~ shall furnish  
21 ~~dedicated administrative and secretarial assistance to the~~  
22 ~~council, and other~~ assistance to the council as requested.

23 (e) The council or a member thereof may not enter into  
24 the day-to-day operation of the Division of State Group  
25 Insurance and is specifically prohibited from taking part in:

- 26 1. The awarding or terminating of contracts.
- 27 2. The selection of a consultant or contractor or the  
28 prequalification of any individual consultant or contractor.  
29 However, the council may recommend to the director standards  
30 and policies governing the procedure for selection and  
31 prequalification of consultants and contractors.

1           3. The employment, promotion, demotion, suspension,  
2 transfer, or discharge of any division personnel.

3           ~~4. The granting, denial, suspension, or revocation of~~  
4 ~~any license or permit issued by the division.~~

5           Section 2. Subsection (2), paragraphs (a), (e), and  
6 (h) of subsection (3), paragraphs (a) and (e) of subsection  
7 (4), and subsections (5), (8), and (9) of section 110.123,  
8 Florida Statutes, 1998 Supplement, are amended, and paragraph  
9 (h) is added to subsection (4) of said section, to read:

10           110.123 State group insurance program.--

11           (2) DEFINITIONS.--As used in this section, the term:

12           (a) "Department" means the Department of Management  
13 Services.

14           (b) "Division" means the Division of State Group  
15 Insurance in the department.

16           (c) "Enrollee" means all state officers and employees,  
17 retired state officers and employees, and surviving spouses of  
18 deceased state officers and employees, and terminated  
19 employees or individuals with continuation coverage, who are  
20 enrolled in an insurance plan offered by the state group  
21 insurance program.

22           (d) "Full-time state employees" includes all full-time  
23 employees of all branches or agencies of state government  
24 holding salaried positions and paid by state warrant or from  
25 agency funds, and employees paid from regular salary  
26 appropriations for 8 months' employment, including university  
27 personnel on academic contracts, but in no case shall "state  
28 employee" or "salaried position" include persons paid from  
29 other-personal-services (OPS) funds.

30           (e) "Health maintenance organization" or "HMO" means  
31 an entity certified under part I of chapter 641.

1           (f) "Health plan member" means any person  
2 participating in the state group health insurance plan or in a  
3 health maintenance organization plan under the state group  
4 insurance program, including enrollees and covered dependents  
5 of enrollees.

6           ~~(g)(f)~~ "Part-time state employee" means any employee  
7 of any branch or agency of state government paid by state  
8 warrant from salary appropriations or from agency funds, and  
9 who is employed for less than the normal full-time workweek  
10 established by the department or, if on academic contract or  
11 seasonal or other type of employment which is less than  
12 year-round, is employed for less than 8 months during any  
13 12-month period, but in no case shall "part-time" employee  
14 include a person paid from other-personal-services (OPS)  
15 funds.

16           ~~(h)(g)~~ "Retired state officer or employee" or  
17 "retiree" means any state officer or state employee who  
18 retires under a state retirement system or a state optional  
19 annuity or retirement program or is placed on disability  
20 retirement, and who was insured under the state group  
21 insurance program at the time of retirement, and who begins  
22 receiving retirement benefits immediately after retirement  
23 from state office or employment.

24           ~~(i)(h)~~ "State agency" or "agency" means any branch,  
25 department, or agency of state government.

26           (j) "State-contracted health maintenance organization"  
27 means any health maintenance organization under contract with  
28 the division to participate in the state group insurance  
29 program.

30           ~~(k)(i)~~ "State group health insurance plan" or "state  
31 plan" means the state self-insured health insurance plan

1 offered to state officers and employees, retired state  
2 officers and employees, and surviving spouses of deceased  
3 state officers and employees pursuant to this section.  
4 (l)~~(j)~~ "State group insurance program" or "programs"  
5 means the package of insurance plans offered to state officers  
6 and employees, retired state officers and employees, and  
7 surviving spouses of deceased state officers and employees  
8 pursuant to this section, including the state group health  
9 insurance plan, health maintenance organization plans, and  
10 other plans required or authorized by this section.  
11 (m)~~(k)~~ "State officer" means any constitutional state  
12 officer, any elected state officer paid by state warrant, or  
13 any appointed state officer who is commissioned by the  
14 Governor and who is paid by state warrant.  
15 (n)~~(l)~~ "Surviving spouse" means the widow or widower  
16 of a deceased state officer, full-time state employee,  
17 part-time state employee, or retiree if such widow or widower  
18 was covered as a dependent under the state group health  
19 insurance plan or a health maintenance organization plan  
20 established pursuant to this section at the time of the death  
21 of the deceased officer, employee, or retiree. "Surviving  
22 spouse" also means any widow or widower who is receiving or  
23 eligible to receive a monthly state warrant from a state  
24 retirement system as the beneficiary of a state officer,  
25 full-time state employee, or retiree who died prior to July 1,  
26 1979. For the purposes of this section, any such widow or  
27 widower shall cease to be a surviving spouse upon his or her  
28 remarriage.  
29 (3) STATE GROUP INSURANCE PROGRAM.--  
30 (a) The Division of State Group Insurance is created  
31 within the Department of Management Services, to be headed by

1 a director who shall be appointed by the Governor and  
2 confirmed by the Senate. The division shall be a separate  
3 budget entity, and the director shall be its agency head for  
4 all purposes.

5 1. The director and assistant director shall be exempt  
6 from the Career Service System as provided under s.  
7 110.205(2)(i). In addition to the 20 policymaking positions  
8 allocated to the Department of Management Services under s.  
9 110.205(2)(m), the director, as agency head, may designate as  
10 being exempt from the Career Service System a maximum of 10  
11 positions determined by the director to have policymaking or  
12 managerial responsibilities comparable to such positions.

13 2. The Department of Management Services shall provide  
14 administrative support and service to the division to the  
15 extent requested by the director. The division shall not be  
16 subject to control, supervision, or direction by the  
17 Department of Management Services in any manner, including,  
18 but not limited to, personnel, purchasing, transactions  
19 involving real or personal property, and budgetary matters,  
20 except to the extent as provided in this chapter and chapters  
21 216, 255, 282, and 287 for agencies of the executive branch.

22 (e)1. Notwithstanding the provisions of chapter 287  
23 and the authority of the department, for the purpose of  
24 protecting the health of, and providing medical services to,  
25 state employees participating in the state group insurance  
26 program ~~Employees' Health Self-Insurance Plan~~, the Division of  
27 State Group Insurance may contract to retain the services of  
28 professional administrators for the state group insurance  
29 program ~~Employees' Health Self-Insurance Plan~~. The division  
30 ~~agency~~ shall follow good purchasing practices of state  
31 procurement to the extent practicable under the circumstances.

1           2. Each vendor in a major procurement, and any other  
2 vendor if the division deems it necessary to protect the  
3 state's financial interests, shall, at the time of executing  
4 any contract with the division, post an appropriate bond with  
5 the division in an amount determined by the division to be  
6 adequate to protect the state's interests but not higher than  
7 the full amount estimated to be paid annually to the vendor  
8 under the contract.

9           3. Each major contract entered into by the division  
10 pursuant to this section shall contain a provision for payment  
11 of liquidated damages to the division for material  
12 noncompliance by a vendor with a contract provision. The  
13 division may require a liquidated damages provision in any  
14 contract if the division deems it necessary to protect the  
15 state's financial interests.

16           4. The provisions of s. 120.57(3) apply to the  
17 division's contracting process, except:

18           a. A formal written protest of any decision, intended  
19 decision, or other action subject to protest shall be filed  
20 within 72 hours after receipt of notice of the decision,  
21 intended decision, or other action.

22           b. As an alternative to any provision of s. 120.57(3),  
23 the division may proceed with the bid selection or contract  
24 award process if the director of the division ~~department~~ sets  
25 forth, in writing, particular facts and circumstances which  
26 demonstrate the necessity of continuing the procurement  
27 process or the contract award process in order to avoid a  
28 substantial disruption to the provision of any scheduled  
29 insurance services.

30           (h)1. A person eligible to participate in the state  
31 group ~~health~~ insurance program plan may be authorized by rules



1 adopted by the division, in lieu of participating in the state  
2 group health insurance plan, to exercise an option to elect  
3 membership in a health maintenance organization plan which is  
4 under contract with the state in accordance with criteria  
5 established by this section and by said rules. The offer of  
6 optional membership in a health maintenance organization plan  
7 permitted by this paragraph may be limited or conditioned by  
8 rule as may be necessary to meet the requirements of state and  
9 federal laws.

10           2. The division shall contract with health maintenance  
11 organizations wishing to participate in the state group  
12 insurance program through a request for proposal or other  
13 procurement process, as developed by the Department of  
14 Management Services and determined to be appropriate by the  
15 director of the division.~~based upon a premium and a minimum~~  
16 ~~benefit package as follows:~~

17           a. The division shall establish a schedule of minimum  
18 benefits for HMO coverage, which schedule ~~A minimum benefit~~  
19 ~~package to be provided by a participating HMO~~ shall include:  
20 physician services; inpatient and outpatient hospital  
21 services; emergency medical services, including out-of-area  
22 emergency coverage; diagnostic laboratory and diagnostic and  
23 therapeutic radiologic services; mental health, alcohol, and  
24 chemical dependency treatment services meeting the minimum  
25 requirements of state and federal law; skilled nursing  
26 facilities and services; prescription drugs; and other  
27 benefits as may be required by the division. Additional  
28 services may be provided subject to the contract between the  
29 division and the HMO.

30  
31

1           b. The division may establish ~~a uniform schedule for~~  
2 ~~deductibles, and copayments, and coinsurance schedules may be~~  
3 ~~established~~ for all participating HMO plans ~~HMOs~~.

4           c. The division may require detailed information from  
5 each HMO participating in the procurement process, including,  
6 but not limited to, information pertaining to organizational  
7 status, experience in providing prepaid health benefits,  
8 accessibility of services, financial stability of the plan,  
9 quality of management services, accreditation status, quality  
10 of medical services, network access and adequacy, performance  
11 measurement, ability to meet the division's reporting  
12 requirements, actuarial basis of the proposed rates, and other  
13 data determined by the director to be necessary for the  
14 evaluation and selection of HMO plans and negotiation of  
15 appropriate rates for such plans. Upon receipt of proposals  
16 by HMO plans and the evaluation of such proposals, the  
17 division may enter into negotiations with all of the plans, or  
18 a subset of the plans, as the division deems appropriate.

19 ~~Based upon the minimum benefit package and copayments and~~  
20 ~~deductibles contained in sub-subparagraphs a. and b., the~~  
21 ~~division shall issue a request for proposal for all HMOs which~~  
22 ~~are interested in participating in the state group insurance~~  
23 ~~program. Upon receipt of all proposals, the division may, as~~  
24 ~~it deems appropriate, enter into contract negotiations with~~  
25 ~~HMOs submitting bids. As part of the request for proposal~~  
26 ~~process, the division may require detailed financial data from~~  
27 ~~each HMO which participates in the bidding process for the~~  
28 ~~purpose of determining the financial stability of the HMO.~~

29           d. ~~In determining which HMOs to contract with, the~~  
30 ~~division shall, at a minimum, consider: each proposed~~  
31 ~~contractor's previous experience and expertise in providing~~

1 ~~prepaid health benefits; each proposed contractor's historical~~  
2 ~~experience in enrolling and providing health care services to~~  
3 ~~participants in the state group insurance program; the cost of~~  
4 ~~the premiums; the plan's ability to adequately provide service~~  
5 ~~coverage and administrative support services as determined by~~  
6 ~~the division; plan benefits in addition to the minimum benefit~~  
7 ~~package; accessibility to providers; and the financial~~  
8 ~~solvency of the plan.~~ Nothing shall preclude the division from  
9 negotiating regional or statewide contracts with health  
10 maintenance organization plans when this is cost-effective and  
11 when the division determines that the plan offers high value  
12 to enrollees ~~has the best overall benefit package for the~~  
13 ~~service areas involved. However, no HMO shall be eligible for~~  
14 ~~a contract if the HMO's retiree Medicare premium exceeds the~~  
15 ~~retiree rate as set by the division for the state group health~~  
16 ~~insurance plan.~~

17 e. The division may limit the number of HMOs that it  
18 contracts with in each service area based on the nature of the  
19 bids the division receives, the number of state employees in  
20 the service area, or ~~and~~ any unique geographical  
21 characteristics of the service area. The division shall  
22 establish by rule service areas throughout the state.

23 f. All persons participating in the state group  
24 insurance program who are required to contribute towards a  
25 total state group health premium shall be subject to the same  
26 dollar contribution regardless of whether the enrollee enrolls  
27 in the state group health insurance plan or in an HMO plan.

28 3. ~~The division is authorized to negotiate and to~~  
29 ~~contract with specialty psychiatric hospitals for mental~~  
30 ~~health benefits, on a regional basis, for alcohol, drug abuse,~~  
31 ~~and mental and nervous disorders. The division may establish,~~

1 ~~subject to the approval of the Legislature pursuant to~~  
2 ~~subsection (5), any such regional plan upon completion of an~~  
3 ~~actuarial study to determine any impact on plan benefits and~~  
4 ~~premiums.~~

5 3.4. In addition to contracting pursuant to  
6 subparagraph 2., the division shall enter into contract with  
7 any HMO to participate in the state group insurance program  
8 which:

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

11 b. Does not currently meet the 25 percent  
12 non-Medicare/non-Medicaid enrollment composition requirement  
13 established by the Department of Health and Human Services  
14 excluding participants enrolled in the state group insurance  
15 program;

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

18 d. Is willing to participate in the state group  
19 insurance program at a cost of premiums that is not greater  
20 than 95 percent of the cost of HMO premiums accepted by the  
21 division in each service area; and

22 e. Meets the minimum surplus requirements of s.  
23 641.225.

24  
25 The division is authorized to contract with HMOs that meet the  
26 requirements of sub-subparagraphs a. through d. prior to the  
27 open enrollment period for state employees. The division is  
28 not required to renew the contract with the HMOs as set forth  
29 in this paragraph more than twice. Thereafter, the HMOs shall  
30 be eligible to participate in the state group insurance

31

1 program only through the request for proposal process  
2 described in subparagraph 2.

3 ~~4.5.~~ All enrollees in the state group health insurance  
4 plan or any health maintenance organization plan shall have  
5 the option of changing to any other health plan which is  
6 offered by the state within any open enrollment period  
7 designated by the division. Open enrollment shall be held at  
8 least once each calendar year.

9 ~~5.6.~~ Any HMO participating in the state group  
10 insurance program shall submit health care utilization and  
11 cost data to the division, in such form and in such manner as  
12 the division shall require, as a condition of participating in  
13 the program. The division shall enter into negotiations with  
14 the division's contracting HMOs to determine the nature and  
15 scope of the data submission and the final requirements,  
16 format, penalties associated with noncompliance, and  
17 timetables for submission. These determinations shall be  
18 adopted by rule.~~Any HMO participating in the state group~~  
19 ~~insurance program shall, upon the request of the division,~~  
20 ~~submit to the division standardized data for the purpose of~~  
21 ~~comparison of the appropriateness, quality, and efficiency of~~  
22 ~~care provided by the HMO. Such standardized data shall~~  
23 ~~include: membership profiles; inpatient and outpatient~~  
24 ~~utilization by age and sex, type of service, provider type,~~  
25 ~~and facility; and emergency care experience. Requirements and~~  
26 ~~timetables for submission of such standardized data and such~~  
27 ~~other data as the division deems necessary to evaluate the~~  
28 ~~performance of participating HMOs shall be adopted by rule.~~  
29 ~~6.7.~~ The division may establish and direct, in  
30 consultation with the Department of Management Services with  
31 respect to collective bargaining issues, a comprehensive

1 package of insurance benefits that may include, but not  
2 necessarily be limited to, supplemental health and life  
3 coverage, dental care, long-term care, and vision care and  
4 other benefits as may be deemed necessary to enable state  
5 employees to select from among benefit options which best suit  
6 their individual and family needs.~~The division shall, after~~  
7 ~~consultation with representatives from each of the unions~~  
8 ~~representing state and university employees, establish a~~  
9 ~~comprehensive package of insurance benefits including, but not~~  
10 ~~limited to, supplemental health and life coverage, dental~~  
11 ~~care, long-term care, and vision care to allow state employees~~  
12 ~~the option to choose the benefit plans which best suit their~~  
13 ~~individual needs.~~

14       a. Based upon a desired benefit package, the division  
15 shall issue a request for proposal for health insurance  
16 providers interested in participating in the state group  
17 insurance program, and the division shall issue a request for  
18 proposal for insurance providers interested in participating  
19 in the non-health-related components of the state group  
20 insurance program. Upon receipt of all proposals, the  
21 division may enter into contract negotiations with insurance  
22 providers submitting bids or negotiate a specially designed  
23 benefit package. Insurance providers offering or providing  
24 supplemental coverage as of May 30, 1991, which qualify for  
25 pretax benefit treatment pursuant to s. 125 of the Internal  
26 Revenue Code of 1986, with 5,500 or more state employees  
27 currently enrolled may be included by the division in the  
28 supplemental insurance benefit plan established by the  
29 division without participating in a request for proposal,  
30 submitting bids, negotiating contracts, or negotiating a  
31 specially designed benefit package. These contracts shall

1 provide state employees with the most cost-effective and  
2 comprehensive coverage available; however, no state or agency  
3 funds shall be contributed toward the cost of any part of the  
4 premium of such supplemental benefit plans.

5 b. Pursuant to the applicable provisions of s.  
6 110.161, and s. 125 of the Internal Revenue Code of 1986, the  
7 division shall enroll in the pretax benefit program those  
8 state employees who voluntarily elect coverage in any of the  
9 supplemental insurance benefit plans as provided by  
10 sub-subparagraph a.

11 c. Nothing herein contained shall be construed to  
12 prohibit insurance providers from continuing to provide or  
13 offer supplemental benefit coverage to state employees as  
14 provided under existing agency plans.

15 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;  
16 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

17 (a) Except as provided in paragraph (e) with respect  
18 to law enforcement officers, ~~correctional~~ and ~~correctional~~  
19 ~~probation officers~~, and firefighters, legislative  
20 authorization through the appropriations act is required for  
21 payment by a state agency of any part of the premium cost of  
22 participation in any group insurance plan. However, the state  
23 contribution for full-time employees or part-time permanent  
24 employees shall continue in the respective proportions for up  
25 to 6 months for any such officer or employee who has been  
26 granted an approved parental or medical leave of absence  
27 without pay.

28 (e) No state contribution for the cost of any part of  
29 the premium shall be made for retirees or surviving spouses  
30 for any type of coverage under the state group insurance  
31 program. However, any state agency that employs a full-time

1 law enforcement officer, correctional officer, or correctional  
2 probation officer who is killed or suffers a catastrophic  
3 injury in the line of duty as provided in s. 112.19, or a  
4 full-time firefighter who is killed or suffers catastrophic  
5 injury in the line of duty as provided in s. 112.191, ~~on or~~  
6 ~~after July 1, 1980, as a result of an act of violence~~  
7 ~~inflicted by another person while the officer is engaged in~~  
8 ~~the performance of law enforcement duties or as a result of an~~  
9 ~~assault against the officer under riot conditions~~ shall pay  
10 the entire premium of the state group health insurance plan  
11 for the employee's surviving spouse until remarried, and for  
12 each dependent child of the employee subject to the conditions  
13 and limitations set forth in s. 112.19 or s. 112.191, as  
14 applicable ~~until the child reaches the age of majority or~~  
15 ~~until the end of the calendar year in which the child reaches~~  
16 ~~the age of 25 if:~~

17 1. ~~At the time of the employee's death, the child is~~  
18 ~~dependent upon the employee for support; and~~

19 2. ~~The surviving child continues to be a dependent for~~  
20 ~~support, or the surviving child is a full-time or part-time~~  
21 ~~student and is dependent for support.~~

22 (h) State employees may participate in the state group  
23 health insurance plan at the time of receiving their state  
24 retirement benefits.

25 (5) DIVISION OF STATE GROUP INSURANCE; POWERS AND  
26 DUTIES.--The division is responsible for the administration of  
27 the state group insurance program. The division shall  
28 initiate and supervise the program as established by this  
29 section and shall adopt such rules as are necessary to perform  
30 its responsibilities. To implement this program, the division  
31 shall, with prior approval by the Legislature:



1           (a) Determine the benefits to be provided and the  
2 contributions to be required for the state group insurance  
3 program. Such determinations, whether for a contracted plan or  
4 a self-insurance plan pursuant to paragraph (c), do not  
5 constitute rules within the meaning of s. 120.52 or final  
6 orders within the meaning of s. 120.52. Any physician's fee  
7 schedule used in the health and accident plan shall not be  
8 available for inspection or copying by medical providers or  
9 other persons not involved in the administration of the  
10 program. However, in the determination of the design of the  
11 program, the division shall consider existing and  
12 complementary benefits provided by the Florida Retirement  
13 System and the Social Security System.

14           (b) Prepare, in cooperation with the Department of  
15 Insurance, the specifications necessary to implement the  
16 program.

17           (c) Contract on a competitive proposal basis with an  
18 insurance carrier or carriers, or professional administrator,  
19 determined by the Department of Insurance to be fully  
20 qualified, financially sound, and capable of meeting all  
21 servicing requirements. Alternatively, the division may  
22 self-insure any plan or plans contained in the state group  
23 insurance program subject to approval based on actuarial  
24 soundness by the Department of Insurance. The division may  
25 contract with an insurance company or professional  
26 administrator qualified and approved by the Department of  
27 Insurance to administer such plan. Before entering into any  
28 contract, the division shall advertise for competitive  
29 proposals, and such contract shall be let upon the  
30 consideration of the benefits provided in relationship to the  
31 cost of such benefits. In determining which entity to contract

1 with, the division shall, at a minimum, consider: the  
2 entity's previous experience and expertise in administering  
3 group insurance programs of the type it proposes to  
4 administer; the entity's ability to specifically perform its  
5 contractual obligations in this state and other governmental  
6 jurisdictions; the entity's anticipated administrative costs  
7 and claims experience; the entity's capability to adequately  
8 provide service coverage and sufficient number of experienced  
9 and qualified personnel in the areas of claims processing,  
10 recordkeeping, and underwriting, as determined by the  
11 division; the entity's accessibility to state employees and  
12 providers; the financial solvency of the entity, using  
13 accepted business sector measures of financial performance.  
14 The division may contract for medical services which will  
15 improve the health or reduce medical costs for employees who  
16 participate in the state group insurance plan.

17 (d) With respect to the state group health insurance  
18 plan, be authorized to require copayments with respect to all  
19 providers under the plan.

20 (e) Have authority to establish a voluntary program  
21 for comprehensive health maintenance, which may include health  
22 educational components and health appraisals.

23 (f) With respect to any contract with an insurance  
24 carrier or carriers or professional administrator entered into  
25 by the division, require that the state and the enrollees be  
26 held harmless and indemnified for any financial loss caused by  
27 the failure of the insurance carrier or professional  
28 administrator to comply with the terms of the contract.

29 (g) With respect to any contract with an insurance  
30 carrier or carriers, or professional administrator entered  
31 into by the division, require that the carrier or professional

1 administrator provide written notice to individual enrollees  
2 if any payment due to any health care provider of the enrollee  
3 remains unpaid beyond a period of time as specified in the  
4 contract.

5 (h) Have authority to establish a voluntary group  
6 long-term care program or other programs to be funded on a  
7 pretax contribution basis or on a posttax contribution basis,  
8 as the division determines.

9 (i) Beginning November 1, 1998, and for the 1998-1999  
10 fiscal year only, continue to process health insurance claims  
11 for the 1996 and 1997 calendar years, subject to the review  
12 and approval process provided in s. 216.177. This paragraph is  
13 repealed on July 1, 1999.

14

15 Final decisions concerning enrollment, the existence of  
16 coverage or covered benefits under the state group ~~health~~  
17 insurance program plan shall not be delegated or deemed to  
18 have been delegated by the division.

19 (8)(a) COVERAGE FOR LEGISLATIVE MEMBERS AND  
20 EMPLOYEES.--The Legislature may provide coverage for its  
21 members and employees under all or any part of the state group  
22 insurance program; may provide coverage for its members and  
23 employees under a legislative group insurance program in lieu  
24 of all or any part of the state group insurance program; and,  
25 notwithstanding the provisions of paragraph (4)(c), may assume  
26 the cost of any group insurance coverage provided to its  
27 members and employees.

28 (b) Effective July 1, 1999, any legislative member who  
29 terminates his or her elected service after July 1, 1999,  
30 after having vested in the state retirement system, may  
31 purchase coverage in the state group health insurance plan at

1 the same premium cost as that for retirees and surviving  
2 spouses.

3 (9) PUBLIC RECORDS LAW; EXEMPTION.--Patient medical  
4 records and medical claims records of state employees, former  
5 state employees, and eligible covered dependents of state  
6 employees or former state employees in the custody or control  
7 of the state group insurance program are confidential and  
8 exempt from the provisions of s. 119.07(1). Such records  
9 shall not be furnished to any person other than the affected  
10 state employee or former state employee, or his or her ~~the~~  
11 ~~employee's~~ legal representative, except upon written  
12 authorization of the state employee or former state employee,  
13 but may be furnished in any civil or criminal action, unless  
14 otherwise prohibited by law, upon the issuance of a subpoena  
15 from a court of competent jurisdiction and proper notice to  
16 the state employee, former state employee, or his or her ~~the~~  
17 ~~employee's~~ legal representative by the party seeking such  
18 records.

19 Section 3. Section 110.12315, Florida Statutes, is  
20 amended to read:

21 (Substantial rewording of section. See  
22 s. 110.12315, F.S., for present text.)

23 110.12315 Prescription drug program.--The state  
24 employees' prescription drug program is hereby established.  
25 The program shall be administered by the Division of State  
26 Group Insurance of the Department of Management Services, in  
27 accordance with the terms and conditions of the plan as  
28 established by the division and by relevant provisions of the  
29 annual General Appropriations Act and implementing  
30 legislation, subject to the following conditions:

31

1       (1) The division shall allow prescriptions written by  
2 health care providers under the plan to be filled by any  
3 licensed pharmacy pursuant to contractual claims-processing  
4 provisions. However, nothing in this section shall be  
5 construed as prohibiting a mail order prescription drug  
6 program distinct from the service provided by retail  
7 pharmacies.

8       (2) In providing for reimbursement of pharmacies for  
9 prescription medicines dispensed to members of the state group  
10 health insurance plan and dependents of such members under the  
11 state employees' prescription drug program:

12       (a) Retail pharmacies participating in the program  
13 shall be reimbursed at a uniform rate and subject to uniform  
14 conditions, in accordance with the terms and conditions of the  
15 plan.

16       (b) There shall be a 30-day supply limit for  
17 prescription card purchases and there shall be a 90-day supply  
18 limit for mail order or mail order prescription drug  
19 purchases.

20       (c) The current pharmacy dispensing fee shall remain  
21 in effect.

22       (3) The division shall establish a reimbursement  
23 schedule for prescription pharmaceuticals dispensed under the  
24 program. Reimbursement rates for a prescription  
25 pharmaceutical shall be based on the cost of the generic  
26 equivalent drug if a generic equivalent exists, unless the  
27 physician prescribing the pharmaceutical clearly states on the  
28 prescription that the brand name drug is medically necessary  
29 or that the drug product is included on the formulary of drug  
30 products that may not be interchanged as provided in chapter  
31 465, in which case, reimbursement shall be based on the cost

1 of the brand name drug as specified in the reimbursement  
2 schedule adopted by the division.

3 (4) The division shall conduct a prescription  
4 utilization review program. In order to participate in the  
5 state employees' prescription drug program, retail pharmacies  
6 dispensing prescription medicines to members of the state  
7 group health insurance plan or covered dependents of such  
8 members, or to subscribers or covered dependents of a health  
9 maintenance organization plan under the state group insurance  
10 program, shall be required to make their records available for  
11 such review.

12 (5) The division shall implement any additional  
13 cost-saving measures and adjustments required to balance  
14 program funding within appropriations provided, including, but  
15 not limited to, a trial or starter dose program and dispensing  
16 of long-term maintenance medication in lieu of acute therapy  
17 medication.

18 (6) Participating pharmacies must use a point-of-sale  
19 device or an on-line computer system to verify a participant's  
20 eligibility for coverage. The state is not liable for  
21 reimbursement of a participating pharmacy for dispensing  
22 prescription drugs to any person whose current eligibility for  
23 coverage has not been verified by the state's contracted  
24 administrator or by the division.

25 Section 4. Section 110.1232, Florida Statutes, is  
26 amended to read:

27 110.1232 Health insurance coverage for persons retired  
28 under state-administered retirement systems before January 1,  
29 1976, and for spouses.--Notwithstanding any provisions of law  
30 to the contrary, the Division of State Group Insurance shall  
31 provide health insurance coverage under ~~in~~ the state group

1 ~~Health insurance program Plan~~ for persons who retired prior to  
2 January 1, 1976, under any of the state-administered  
3 retirement systems and who are not covered by social security  
4 and for the spouses and surviving spouses of such retirees who  
5 are also not covered by social security. Such health  
6 insurance coverage shall provide the same benefits as provided  
7 to other retirees who are entitled to participate under s.  
8 110.123. The claims experience of this group shall be  
9 commingled with the claims experience of other members covered  
10 under s. 110.123.

11 Section 5. Subsection (1) of section 110.1234, Florida  
12 Statutes, is amended to read:

13 110.1234 Health insurance for retirees under the  
14 Florida Retirement System; Medicare supplement and fully  
15 insured coverage.--

16 (1) The Division of State Group Insurance shall  
17 solicit competitive bids from state-licensed insurance  
18 companies to provide and administer a fully insured Medicare  
19 supplement policy for all eligible retirees of a state or  
20 local public employer. Such Medicare supplement policy shall  
21 meet the provisions of ss. 627.671-627.675. For the purpose  
22 of this subsection, "eligible retiree" means any public  
23 employee who retired from a state or local public employer who  
24 is covered by Medicare, Parts A and B. The division ~~department~~  
25 shall authorize one company to offer the Medicare supplement  
26 coverage to all eligible retirees. All premiums shall be paid  
27 by the retiree.

28 Section 6. Section 110.1238, Florida Statutes, is  
29 amended to read:

30 110.1238 State group health insurance plans; refunds  
31 with respect to overcharges by providers.--A participant in a

1 state group health insurance plan who discovers that he or she  
2 was overcharged by a health care provider shall receive a  
3 refund of 50 percent of any amount recovered as a result of  
4 such overcharge, up to a maximum of \$1,000 ~~per admission~~.

5 Section 7. Subsections (5), (6), and (7) of section  
6 110.161, Florida Statutes, are amended to read:

7 110.161 State employees; pretax benefits program.--

8 (5) The Division of State Group Insurance shall  
9 develop rules for the pretax benefits program, which shall  
10 specify the benefits to be offered under the program, the  
11 continuing tax-exempt status of the program, and any other  
12 matters deemed necessary by the division ~~department~~ to  
13 implement this section. The rules must be approved by a  
14 majority vote of the Administration Commission.

15 (6) The Division of State Group Insurance is  
16 authorized to administer the ~~establish a~~ pretax benefits  
17 program established for all employees so that ~~whereby~~  
18 employees may ~~would~~ receive benefits which are not includable  
19 in gross income under the Internal Revenue Code of 1986. The  
20 pretax benefits program: ~~shall be implemented in phases. Phase~~  
21 ~~one~~

22 (a) Shall allow employee contributions to premiums for  
23 the state group insurance health program administered under s.  
24 110.123 ~~and state life insurance~~ to be paid on a pretax basis  
25 unless an employee elects not to participate.

26 (b) ~~Phase two~~ Shall allow employees to voluntarily  
27 establish expense reimbursement plans from their salaries on a  
28 pretax basis to pay for qualified medical and dependent care  
29 expenses, including premiums paid by employees for qualified  
30 supplemental insurance.

31



1           (c) ~~Phase two~~ May also provide for the payment of such  
2 premiums through a pretax payroll procedure ~~as used in phase~~  
3 ~~one~~. The Administration Commission and the Division of State  
4 Group Insurance are directed to take all actions necessary to  
5 preserve the tax-exempt status of the program.

6           (7) The Legislature recognizes that a substantial  
7 amount of the employer savings realized by the implementation  
8 of a pretax benefits program will be the result of diminutions  
9 in the state's employer contribution to the Federal Insurance  
10 Contributions Act tax. There is hereby created the Pretax  
11 Benefits Trust Fund in the Division of State Group Insurance.  
12 Each agency shall transfer to the Pretax Benefits Trust Fund  
13 the employer FICA contributions saved by the state as a result  
14 of the implementation of the pretax benefits program  
15 authorized pursuant to this section. Any moneys forfeited  
16 pursuant to employees' salary reduction agreements to  
17 participate in ~~phase one or phase two~~ of the program must also  
18 be deposited in the Pretax Benefits Trust Fund. Moneys in the  
19 Pretax Benefits Trust Fund shall be used for the pretax  
20 benefits program, including its administration by the Division  
21 of State Group Insurance ~~Department of Management Services~~ or  
22 a third-party administrator.

23           Section 8. Paragraph (i) of subsection (2) of section  
24 110.205, Florida Statutes, is amended to read:

25           110.205 Career service; exemptions.--

26           (2) EXEMPT POSITIONS.--The exempt positions which are  
27 not covered by this part include the following, provided that  
28 no position, except for positions established for a limited  
29 period of time pursuant to paragraph (h), shall be exempted if  
30 the position reports to a position in the career service:  
31

1           (i) The appointed secretaries, assistant secretaries,  
2 deputy secretaries, and deputy assistant secretaries of all  
3 departments; the executive directors, assistant executive  
4 directors, deputy executive directors, and deputy assistant  
5 executive directors of all departments; and the directors of  
6 all divisions and those positions determined by the department  
7 to have managerial responsibilities comparable to such  
8 positions, which positions include, but are not limited to,  
9 program directors, assistant program directors, district  
10 administrators, deputy district administrators, the Director  
11 of Central Operations Services of the Department of Health and  
12 Rehabilitative Services, the assistant director of the  
13 Division of State Group Insurance and the assistant director  
14 of the Division of Retirement of the Department of Management  
15 Services, and the State Transportation Planner, State Highway  
16 Engineer, State Public Transportation Administrator, district  
17 secretaries, district directors of planning and programming,  
18 production, and operations, and the managers of the offices  
19 specified in s. 20.23(3)(d)2., of the Department of  
20 Transportation. Unless otherwise fixed by law, the department  
21 shall set the salary and benefits of these positions in  
22 accordance with the rules of the Senior Management Service.

23           Section 9. Section 121.025, Florida Statutes, is  
24 amended to read:

25           121.025 Administrator; powers and duties.--The  
26 director of the Division of Retirement shall be the  
27 administrator of the retirement and pension systems assigned  
28 or transferred to the Division of Retirement by law and shall  
29 have the authority to sign the contracts necessary to carry  
30 out the duties and responsibilities assigned by law to the  
31 Division of Retirement. The director and assistant director

1 shall be exempt from the Career Service System as provided  
2 under s. 110.205(2)(i). In addition to the 20 policymaking  
3 positions allocated to the Department of Management Services  
4 under s. 110.205(2)(m), the director, as agency head, may  
5 designate as being exempt from the Career Service System a  
6 maximum of 10 positions determined by the director to have  
7 policymaking or managerial responsibilities comparable to such  
8 positions.

9           Section 10. Paragraph (a) of subsection (5) of section  
10 215.94, Florida Statutes, is amended to read:

11           215.94 Designation, duties, and responsibilities of  
12 functional owners.--

13           (5) The Department of Management Services shall be the  
14 functional owner of the Cooperative Personnel Employment  
15 Subsystem. The department shall design, implement, and  
16 operate the subsystem in accordance with the provisions of ss.  
17 110.116 and 215.90-215.96. The subsystem shall include, but  
18 shall not be limited to, functions for:

19           (a) Maintenance of employee and position data,  
20 including funding sources and percentages and salary lapse.  
21 The employee data shall include, but not be limited to,  
22 information to meet the payroll system requirements of the  
23 Department of Banking and Finance and to meet the employee  
24 benefit system requirements of the Division of State Group  
25 ~~Employees~~ Insurance in the Department of Management Services.

26           Section 11. This act shall take effect upon becoming a  
27 law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

HOUSE SUMMARY

Revises and clarifies provisions relating to the state group insurance program, the Division of State Group Insurance of the Department of Management Services, the Florida State Group Insurance Council, health maintenance organization contracting, the state employees' prescription drug program, the State Employee's Pretax Benefits Program, and exemptions from the Career Service System. See bill for details.