

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 326

SPONSOR: Senator Thomas

SUBJECT: The Treasurer

DATE: January 25, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lombardi</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill earmarks administrative fees paid by participants of the State's Deferred Compensation Plan for purposes of benefiting only plan participants and eliminates reversion of any surplus fees to the General Revenue Fund.

This act will take effect upon becoming law.

This bill amends sections 18.125 and 112.215, Florida Statutes.

II. Present Situation:

In 1975, the Florida Legislature enacted the "government employees deferred compensation plan act" pursuant to ch. 75-295, L.O.F. The plan authorized state agencies and other political subdivisions of the state to adopt a deferred compensation plan (plan). The plan permits employees to defer compensation for federal tax purposes except for social security taxes. The plan was authorized to contract with any licensed insurance company, bank, savings and loan association, or mutual fund company for the employee's investment of the deferred compensation funds. The State Treasurer was designated plan administrator.

Pursuant to s. 112.215(4)(a), F.S., the State Treasurer, with the approval of the State Board of Administration (SBA), established the plan. Section 2.11 of the plan states that the state treasurer is responsible for determining the cost of administering the plan to the state and shall reimburse the state for those expenses from funds administered within the plan. The Treasurer's Bureau of Deferred Compensation is currently responsible for administering and monitoring plan contracts for the state, two special districts, and the SBA. Each plan participant pays \$1 per investment account monthly to the state's treasury for plan expenditures. The Treasurer's Division of Benefits, which originally administered the plan, was legislatively eliminated in 1994. Subsequently, the plan was transferred to the Administrative and Investment Trust Fund (A&I) existing pursuant to s. 18.125(4)(a), F.S.

A&I is a depository for assessments made against average daily balances of moneys invested by the treasury on behalf of the state, state agencies, the judicial branch, and upon request, the funds of any statutorily created board, association, or entity pursuant to s. 18.125, F.S. These assessments are used to defray costs incurred by the Division of Treasury in performing administrative and investment activities. However, pursuant to s. 18.125(4)(c), F.S., unencumbered balances in excess of \$750,000 at the close of each quarter must be transferred unallocated to the General Revenue Fund.

Existing Situation

The fees to participants imposed by the deferred compensation plan are now statutorily part of the A&I Trust Fund and are not recognized as having their own identity. The \$750,000 cap statutorily imposed by s. 18.125(4)(c), F.S., does not differentiate between average daily investment balance assessments and deferred compensation fees collected by the Treasury. Thus, deferred compensation fee assessments in excess of plan appropriation become eligible quarterly for reversion to the General Revenue Fund. This also means that monies intended to pay plan participant administrative expenses are now available for paying general government expenses.

The Auditor General, in Report No. 13372, disclosed the following information with respect to surplus deferred compensation cash balances:

* Subsequent to a review by the Auditor General, the Department of Treasury initiated further study to determine what, if any, cash surplus existed for FY 1995-96. Based on the department’s analysis, it was determined a surplus did not exist and that the A&I Trust Fund had in fact subsidized operating deficits in the plan in the amount of \$83,807. It was further determined that the subsidy should be returned to the A&I Trust Fund which otherwise would have exceeded the \$750,000 fund limitation. The funds were reverted to the general revenue fund in accordance with the provisions of s.18.125(4)(c), F.S. It should be noted that in prior fiscal years the plan normally operated at a deficit and that the Treasurer’s Regulatory Trust Fund provided subsidies to maintain plan operation.

* A review by the Auditor General for the quarter ended June 30, 1997, determined that the A&I Trust Fund exceeded its’ cap limitation by \$836,894 of which \$89,801 was attributable to collection fees exceeding deferred compensation plan expenses. This marked the first time a cash surplus existed for the plan.

The following table updates cash surplus balances in the plan:

Deferred Compensation Cash Analysis	
Cash Deficit 6/30/96	(\$83,807.00)
Excess Cash 6/30/97	\$89,801.15
Excess Cash 6/30/98	\$178,187.57
Excess Cash 12/31/98	\$99,721.11
Total Excess Cash	\$180,252.68

III. Effect of Proposed Changes:

This bill earmarks administrative fees paid by participants of the State's Deferred Compensation Plan for purposes of benefiting only plan participants and eliminates reversion of any surplus fees to the General Revenue Fund.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The budget for the Bureau of Deferred Compensation for FY 1998-99 is \$487,816. Currently, there are approximately 43,000 plan participants, each contributing a monthly fee of \$1. Some participants have more than 1 account; however, a conservative annual fee collection estimate would be \$516,000. Five months of operating working capital would require approximately \$203,255 to be placed in reserve. Although the lump sum appropriation for the reserve would be a one time occurrence, the reserve number would remain fixed and would need to be raised or lowered based on the number of plan participants.

Including a 5 month operating capital reserve, the Bureau's budget would reflect cash expenditures of \$691,071. Because collection fees only total \$516,000, \$175,071 would need to be appropriated from the excess cash balance (\$180,252.68) in the plan, leaving the remaining excess cash balance at \$9,181.68.

If collection fees in excess of operating expenses and the existing cash surplus are rebated to plan participants in the subsequent year (\$37,365.68), plan participation fees could realize a fee reduction of approximately 7 cents per month (\$1 to 93 cents) in the first year and 5 cents per month in subsequent years (\$1 to 95 cents).

B. Private Sector Impact:

None.

C. Government Sector Impact:

Surplus fees contributed by deferred compensation participants, although applicable for use through the Deferred Compensation Trust Fund, must be appropriated by the Legislature. A broader policy issue exists as to whether the funds should be used to: increase state government employee awareness of the program's availability; improve existing participants' investing skills and knowledge of the program through the dissemination of educational/informational materials regarding the plan; or lower the overall administrative fee structure for all participants and forego the preceding two options.

It should be noted that the plan participant fee is paid through a contractual arrangement with each plan provider or investment money manager. The Florida Records Administrator, a contracted private entity, is responsible for maintaining all plan records and invoicing plan providers for the \$1 plan participant administration fee. Those funds are then remitted to the Treasury. The Florida Records Administrator also invoices the plan providers \$1.15 monthly for their record keeping fee. These fee arrangements are spelled out in the contract which is renewed annually with each provider. Consequently, a reduction in the plan participant administrative fee could not be realized until the next contract period (12/31/2002).

VI. Technical Deficiencies:

It appears that the Legislature intended that only investment fees be placed in the A&I Trust Fund pursuant to s. 18.125(4)(c), F.S., and did not anticipate the inclusion plan participant fees. Further, language included in section 2.11 of the plan may be construed as limiting the collection of fees only to the extent plan administrative expenses are covered. Absent statutory authority, the Department could be challenged in its authority to collect plan fees in excess of normal operating expenses.

VII. Related Issues:

A Legislative Budget Request has not been prepared for the surplus funds in the plan.

VIII. Amendments:

None.