

STORAGE NAME: h1469.sgc.doc
DATE: April 24, 2001

HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS

BILL #: HB 1469
RELATING TO: Group Insurance for Public Officers, Employees, and Volunteers
SPONSOR(S): Representative(s) Rich

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
 - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 11 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

Current law authorizes any local governmental unit to provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance for the officers and employees of such unit. The local governmental unit may also pay for the health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees with a group insurance plan. Accordingly, the local governmental unit is authorized to enter into contracts to obtain such insurance.

Before entering into any contract for insurance, the local governmental unit must advertise for competitive bids and select an insurance plan. Each local governmental unit may self-insure any plan for health, accident, and hospitalization coverage, or enter into a risk management consortium to provide such coverage. The contract is subject to approval from the Department of Insurance based on the actuarial soundness of the plan.

HB 1469 allows the local governmental entity to purchase insurance, enter into risk-management programs, or contract with third-party administrators if the health insurance provider used by the local governmental entity becomes financially impaired as determined by the Department of Insurance, or otherwise fails or refuses to provide the contracted-for coverage or coverages. The local governmental entity may obtain such insurance or enter into such contracts by advertising for competitive bids *or by direct negotiations and contract*.

HB 1469 essentially allows a local governmental entity to bypass the competitive bid process if an emergency situation arises and the employees of such entity face a potential lack of coverage.

HB 1469 does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 112.08, F.S., deals with group insurance for public officers, employees, and certain volunteers. Section 112.08(2), F.S., states that any local governmental unit¹ is authorized to provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kinds of such insurance, for the officers and employees of the local governmental unit. The local governmental unit may also pay for the health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees upon a group insurance plan. Accordingly, the local governmental unit is authorized to enter into contracts to obtain such insurance.

Before entering into any contract for insurance, the local governmental unit must advertise for competitive bids and select an insurance plan based on these bids. However, the local governmental unit may undertake simultaneous negotiations with those companies who have submitted reasonable bids. Each local governmental unit may self-insure any plan for health, accident, and hospitalization coverage, or enter into a risk management consortium to provide such coverage, subject to approval from the Department of Insurance based on the actuarial soundness of the plan. The Department of Insurance must approve the contract entered into by the local governmental unit with the insurance company or professional administrator.²

To obtain approval by the Department of Insurance, the local governmental entity must submit its plan along with a certification as to the actuarial soundness of the plan. This certification must be prepared by an actuary who is a member of the Society of Actuaries of the American Academy of Actuaries. The Department of Insurance approves the plan if it determines that the plan provides sufficient revenues to pay current and future liabilities, as determined according to generally accepted actuarial principles.³

¹Section 112.08(1), F.S., defines a local governmental unit as any county, municipality, community college district, school board, or special district or any county officer listed in s. 1(d), Art. VII of the State Constitution. Article VII, Section 1(d) of the Florida Constitution states: "There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."

² Section 112.08(2)(a), F.S.

³ Section 112.08(2)(b), F.S.

After the chosen plan is implemented by the local governmental entity, such entity is responsible for submitting an annual report to the Department of Insurance which contains information prepared by an actuary on the soundness of the plan.⁴ The Department of Insurance may notify the local governmental entity if it finds any actuarial deficiencies.

The local governmental entity may provide group insurance for volunteer or auxiliary firefighters, volunteer or auxiliary law enforcement agents, or volunteer or auxiliary ambulance or emergency service personnel within its jurisdiction.

The Department of Insurance is authorized to adopt rules to carry out the provisions of s. 112.08, F.S.⁵

C. EFFECT OF PROPOSED CHANGES:

HB 1469 amends s. 112.08, F.S., to allow the local governmental entity to purchase insurance, enter into risk-management programs, or contract with third-party administrators if the health insurance provider used by the local governmental entity becomes financially impaired⁶ as determined by the Department of Insurance, or otherwise fails or refuses to provide the contracted-for coverage or coverages. The local governmental entity may obtain such insurance or enter into such contracts by advertising for competitive bids or by direct negotiations and contract.

HB 1469 essentially allows a local governmental entity to bypass the competitive bid process if an emergency situation arises and the employees of such entity face a potential lack of coverage.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁴ Section 112.08(2)(b), F.S., requires the report to contain the following information: the adequacy of contribution rates in meeting the level of benefits provided and the changes needed in contribution rates; a plan to amortize any unfunded liabilities and a description of the actions taken to reduce unfunded liabilities; a description and explanation of actuarial assumptions; a schedule illustrating the amortization of any unfunded liabilities; a comparative review illustrating the level of funds available to the plan from rates, investment income, and other sources; a statement by the actuary that the report is complete and accurate; and other factors or statements required by the Department of Insurance.

⁵ Section 112.08(6), F.S.

⁶ The term "financially impaired" is not defined in statute. However, Chapter 624, F.S., the Florida Insurance Code, outlines in Part III the general requirements and expectations of insurers. Section 624.80, F.S., defines the term "unsound condition." It means any of the following conditions: the insurer's required surplus, capital, or capital stock is *impaired* to an extent prohibited by law; the insurer continues to write new business when it has not maintained the required surplus or capital; or the insurer attempts to dissolve or liquidate without first having made provisions, satisfactory to the department, for liabilities arising from insurance policies issued by the insurer. Information provided by staff in the legislative affairs office of the Department of Insurance on April 5, 2001.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Department of Insurance does not believe that HB 1469 will create any additional workload for the department. Situations such as described in the bill do not occur on a regular basis and therefore do not place an extra burden on the department.⁷

The Florida League of Cities supports HB 1469.⁸

⁷ Pursuant to conversation with the Department of Insurance's legislative affairs division on April 2, 2001.

⁸ Pursuant to conversation with Carol Westmoreland, lobbyist for the Florida League of Cities, on April 2, 2001.

The Florida Association of Counties has a neutral position on HB 1469.⁹

The School Board of Broward County had a contract with two health providers for health insurance coverage for its employees through December 31, 2001. One provider refused to honor the contract and ceased to provide coverage; subsequently the school board filed a lawsuit. The other provider was on the verge of insolvency, and was declared financially impaired by the Department of Insurance a few months later; this provider was unable to enroll additional members. The school board was faced with the possibility of having no health insurance for its 25,000 employees, with one provider refusing to honor the contract and the other provider in a precarious financial situation.¹⁰

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Lauren Cyran

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Kama Monroe

Staff Director:

Greg Turbeville

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Lauren Cyran

Staff Director:

Don Rubottom

⁹ Pursuant to telephone conversation with the Florida Association of Counties on April 4, 2001.

¹⁰ Pursuant to background information provided by the Office of Representative Rich on April 3, 2001.