HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 153 State Risk Management Trust Fund
SPONSOR(S): Gottlieb
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1934 (i)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Services (Sub)		Mitchell	Collins
2) Health Care			
3) State Administration			
4) Finance & Tax			
5) Health Appropriations (Sub)			
6) Appropriations			

SUMMARY ANALYSIS

HB 153 adds to s. 284.01(1), F.S., the provision that a hospital district created by special act, shall be considered a state agency, and its property and leasehold interests shall be considered owned by the state, for the purpose of property insurance coverage by the State Risk Management Trust Fund. Upon the request of such district, and the payment of the premiums, the trust fund is required to insure the property or leasehold interests of the district in the same manner as property owned by state agencies.

The State Risk Management Trust Fund program is administered by the Department of Financial Services. The Property Section of the Risk Management program insures all state owned and leased buildings, and state-owned contents, for damages by fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot, civil commotion, sinkhole collapse and flood (s. 284.01, F.S.). Property coverage is provided for approximately 22,000 locations statewide. Total property covered is valued at more than $14 billion. The property section processes more than 250 property insurance claims annually.

Dramatically rising property insurance premiums for hospitals are contributing to the continued crisis in rising medical care costs. According to Memorial Healthcare System, in Broward County, in the last two years their insurance premiums for property damage have increased almost 700 percent, from just over $500,000 in 2001 to $3.5 million in 2002. Memorial Healthcare is one of the largest hospital systems in Florida with a total property value of approximately $1.2 billion, and was established by the Legislature as a special tax district, the South Broward Hospital District.

There are at least 77 hospital special districts created by the Legislature to which this bill may apply, according to House Local Government and Veteran's Affairs staff. According to the Department of Insurance, hospitals are the most expensive state property currently covered by the risk fund. Additionally, 40 percent of the state property value covered is in Alachua and Leon Counties, with fifty percent in the state's university system. The largest single property covered is Shands Hospital, at the University of Florida.

While the bill may help reduce property insurance rates for certain hospitals, it has a fiscal impact on the state and such coverage may still not be sufficient to meet the needs of the private hospitals.
(See Fiscal Comments)

The bill takes effect on July 1, 2003.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[x]	N/A[]
2. Lower taxes?	Yes[]	No[x]	N/A[]
3. Expand individual freedom?	Yes[]	No[x]	N/A[]
4. Increase personal responsibility?	Yes[]	No[x]	N/A[]
5. Empower families?	Yes[]	No[x]	N/A[]

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

This bill extends state fiscal and agency responsibility for property insurance coverage to private sector hospitals. (See Fiscal Comments below.)

B. EFFECT OF PROPOSED CHANGES:

State Risk Management Trust Fund Property Coverage for Hospitals

HB 153 adds to s. 284.01(1), F.S., the provision that a hospital district created by special act, shall be considered a state agency, and its property and leasehold interests shall be considered owned by the state, for the purpose of property insurance coverage by the State Risk Management Trust Fund. It requires the fund to insure the property of hospital districts created by special act when the districts request coverage and pay premiums to the fund. There are at least 77 hospital special districts created by the Legislature to which this bill may apply.

The State Risk Management Trust Fund program is administered by the Department of Financial Services. The Property Section of the Risk Management program insures all state-owned and leased buildings, and state-owned contents, for damages by fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot, civil commotion, sinkhole collapse and flood (s. 284.01, F.S.). The property section processes more than 250 property insurance claims annually.

Rising Cost of Hospital Property Insurance

Dramatically rising property insurance premiums for hospitals are contributing to the continued crisis in rising medical care costs. According to Memorial Healthcare System in Broward County, in the last two years their insurance premiums for property damage have increased almost 700 percent, from just over $500,000 in 2001 to $3.5 million in 2002. Memorial Healthcare is one of the largest hospital systems in Florida with a total property value of approximately $1.2 billion, and was established by the Legislature as a special tax district, the South Broward Hospital District.

Risk of Terrorism and Hurricanes Exacerbate Property Insurance Costs

Memorial Healthcare System is not alone in facing property insurance problems. According to the Florida Department of Financial Services, property insurance is now considered to be a "hard market." Current requests for coverage exceed market capacity. Facilities are paying more for premiums with less coverage.

The property insurance market had begun to experience substantial changes in pricing, terms and conditions in 1999, but the situation became very difficult after the terrorist attacks of September 11, 2001. After September 11, Memorial Healthcare's insurance carrier added terrorism exclusions, and limited overall coverage to a maximum of $500 million.

According to the department, underwriters are particularly reluctant to write property coverage in Florida due to the state's windstorm and hurricane exposure. The insurance carrier for Memorial

Healthcare has reduced its wind damage coverage to $25 million. According to Memorial Healthcare, under current negotiations, the best wind damage coverage they can get on their $1.2 billion property, including reinsurance, is only $150 million with a deductible of between $12.5 and $60 million (based on 2 to 5 percent of their total property value).

State Risk Management Trust Fund

Under provisions of Part I of Chapter 284, F.S., the state provides its own insurance coverage to state agencies through the State Risk Management Trust Fund. All agencies under the executive, legislative, and judicial branches participate in the self insurance program administered by the Risk Management Program of the Department of Financial Services. The program collects premiums from state agencies to pay claims and the operating costs of the division, and to buy commercial insurance to cover potentially catastrophic losses in the areas of property damage and worker's compensation.

Major Coverage Lines Provided by the State Risk Management Program:
- Property (state-owned buildings and contents).
- Workers' compensation (state employee injuries).
- General liability (state agency premises and operations).
- Auto liability (state employees on state business).
- Employment discrimination (actions of state managers violating the rights of employees).
- Federal civil rights (actions of state officials alleged to have violated someone's civil rights).

The State Risk Management Trust Fund program has 100 FTE staff located in Tallahassee and handles about 20,000 new claims per year, with current annual funding of $163 million. Claims and operating costs are paid from the State Risk Management Trust Fund. The trust fund is financed on a "cash flow" basis. Only annual estimated cash needs are funded. There is no reserve funding provided for ultimate liabilities. Current funding for the program is 65 percent General Revenue and 35 percent Trust Fund.

State Property Coverage Issues

Subsection (4) of s. 284.01, F.S., relating to property, provides for the department to determine what coverage is insurable and any deductibles. Subsection (5) provides that premiums be charged to agencies retrospectively, based on actual losses to the fund. The amount of the premiums is to take into account cost of reinsurance.

Unpredictability of Risks and Costs: The risks and costs vary for insurance in each of the areas covered by the State Risk Management Trust Fund. Large property claims are especially unpredictable from year to year because of exposure to hurricanes and now terrorism. By comparison, General Liability and Auto Liability are very predictable, mainly because of sovereign immunity which limits the amounts that can be paid.

Valuation: Property coverage is provided for approximately 22,000 locations statewide. Total property covered is valued at more than $14 billion. The valuation made by state agencies of their property to be covered, and their share of contribution to the trust fund, is based on an established cost per-square foot, based on the type of structure and its function (i.e., a warehouse versus a hospital), to create a replacement value for the building at today's construction costs.

Hospitals are the most expensive state property: According to the department, 40 percent of the state property value covered is in Alachua and Leon Counties, with fifty percent in the state's university system. The largest single property covered is Shands Hospital, at the University of Florida in Gainesville.

Mix of Self and Commercial Insured: Most of the property damages to state property are covered by trust fund self-insurance. Replenishment funds for property losses are paid on an Actual Cash Value basis to insured agencies, and are replenished by assessment of each agency based on its property values. However, the state purchases private insurance to cover catastrophic property damages which "smoothes" the annual impact of costs due to losses.

Rising Cost of Commercial Insurance for Excess Losses
The current, FY 2002-2003, commercial premium for excess coverage to cover catastrophic damage to state property is $10,595,000. This is an increase of 51 percent over the previous year, according to the department. Prior to Hurricane Andrew, premiums for excess property exposure costed only about $800,000. For the current premium, the state gets $200 million total coverage, with a $2 million deductible known as Self-Insured Retention--except for wind storm damage. Wind storm damage is covered up to $70 million, with a $4 million self-insured deductible. Terrorism and related acts are excluded from the coverage. Of the $10.6 million premium, $8,020,000 is for the first $30,000,000 of coverage.

Effects of HB 153

Section 284.01, F.S., provides for state property coverage by the State Risk Management Trust Fund. The trust fund insures property owned by the state or its agencies, boards, or bureaus against loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage, and loss from the removal of personal property from such properties, when endangered by covered perils.

HB 153 adds to s. 284.01(1), F.S., the provision that a hospital district created by special act, shall be considered a state agency, and its property and leasehold interests shall be considered owned by the state, for the purpose of property insurance coverage by the State Risk Management Trust Fund.

Upon the request of such district, and the payment of the premiums, the trust fund is required to insure the property or leasehold interests of the district in the same manner as property owned by state agencies.

Participation of a Non-State Agency: Subsection (1) of s. 284.01, F.S., already provides for one instance of non-state agency participation in state property insurance coverage. The statute provides for coverage of the State Regional Office Building in Jacksonville, which is jointly owned by the State of Florida and the City of Jacksonville. The City of Jacksonville is responsible for the payment of all premiums charged by the fund to insure property owned by the City of Jacksonville.

C. SECTION DIRECTORY:

Section 1. Amends s. 284.01(1), F.S., to provide for State Risk Management Trust Fund property coverage for certain hospital districts.

Section 2. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Not yet determined. See comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

May reduce cost of property insurance to certain hospitals. See comments below.

D. FISCAL COMMENTS:

Hospitals: While hospitals which chose to participate in the State Risk ManagementTrust Fund under the provisions of HB 153 could expect to pay lower premiums as part of the larger risk pool according to the department, state coverage may not be sufficient to cover their potential losses. State wind storm damage is covered up to $70 million, with a $4 million self-insured deductible. Terrorism and related acts are excluded. While Memorial Healthcare current coverage for wind damage has been reduced to just $25 million, the hospital is negotiating for reinsurance coverage up to $150 million, and is concerned that more is not available for their $1.2 billion property.

Department of Financial Services: To avoid the need for unexpected appropriations by the Legislature, the department would have to carefully assess the value of the added properties and their risk of damages, and charge appropriate premiums to the hospitals for their participation in the fund. According to staff of the Local Government and Veteran's Affairs Committee, there are 77 hospital special districts to which the bill may apply depending on their request for participation.

Expanded Self Insurance: Adding additional hospital risks to state property would make it more difficult for the state to move to complete self insurance to avoid rising commercial insurance costs. Because of the high cost of commercial reinsurance and the history of low claims paid, the department is considering complete self-insurance for property to reduce reliance on commercial insurance. According to the department, since Hurricane Andrew, from FY 1991-1992 through FY 2001-2002, the state paid $59,766,817 for commercial excess property damage coverage. Losses paid by the commercial carrier have been only $15,834,281.

According to the department, since 1950, there have only been two occurrences when losses were paid by commercial insurance. One was for hail damage in Orlando, when commercial insurance paid about $1 million. With Hurricane Andrew, commercial insurance coverage paid about $16 million in losses. More typical storms such as Tropical Storm Allison in 2000-2001 only resulted in 10 claims that were paid by the state for $288,700.

Legislature: The fiscal impact on the state depends on the number of hospitals in special districts that choose to participate in the state's insurance program, and the total property value of their hospital buildings and contents. There are at least 77 special hospital districts that might chose to participate. The valuations of their property would be added to the total the state must self-insure and buy excess coverage for. The special district hospitals would represent additional risk for the self insured deductible assumed by the state and the costs of running the program, which are covered by General Revenue and the Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Financial Services, pursuant to s. 284.17, F.S., has the authority to adopt rules to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES