

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 635 Group Insurance for Public Employees

**SPONSOR(S):** Stargel

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 92

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee	17 Y, 0 N	Kliner	Hamby
2) Health & Human Services Committee			
3) Appropriations Committee			
4) Education Committee			

### SUMMARY ANALYSIS

This bill establishes the School District Insurance Consortium (Consortium). Health, accident, and hospitalization insurance will be procured through the Consortium for school district officers, employees, and their dependents.

The Consortium will be managed by a nine-member board of directors with representation from school board members, superintendents, public school teachers or support personnel, and an individual with expertise in employee benefit systems. Directors serve two-year terms. The board of directors is authorized to hire staff, contract for services, and request technical support from the Department of Management Services (Department).

This bill requires competitive bid participation. Multiple providers are authorized and insurance coverage may be statewide or regionally-based. For regional coverage, the Consortium must include school districts of varying size.

This bill clarifies that collective bargaining is required, and specifies included subjects, consistent with current law.

An opt-out provision is available to any school district provided that the school board holds a properly noticed public meeting and finds that less expensive insurance is available elsewhere.

This bill takes effect July 1, 2011, with application to begin upon the latter of the date of July 1, 2012, or upon expiration or renewal of existing contracts, whichever occurs later.

The fiscal impact is indeterminate. The bill requires the Department of Management Services to provide technical services to the Consortium, as needed. The extent or type of such technical services is unknown at this time.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Interlocal Agreements

Section 163.01, F.S., authorizes public agencies, including district school boards, to enter into interlocal agreements with one another for services and facilities. Such agreements may allow for one or more parties to provide services in exchange for payment or for a mutual exchange of services. Each party to an interlocal agreement must possess the authority to take the action called for in the agreement.<sup>1</sup>

##### Health Insurance for School District Employees

Chapter 112, F.S., addresses various conditions of employment, including retirement and group insurance for local governmental units, defined to include school boards.<sup>2</sup> Section 112.08, F.S., authorizes local governmental units to contract with private companies for the provision of all types of insurance, including life, health, accident, hospitalization, legal expense, and annuity insurance.<sup>3</sup> The local governmental unit is required to participate in the competitive bid process in procuring group insurance.<sup>4</sup> If the local governmental unit intends to self-insure, approval by the Office of Insurance Regulation is required, with approval to be based upon the actuarial soundness of the plan.<sup>5</sup> Currently, the 67 school districts purchase health, accident, and hospitalization insurance for officers, employees and dependents, as individual school districts.

##### Florida Law on Collective Bargaining

Chapter 447, F.S., addresses labor organizations. The district school board is considered the public employer for all employees of the district.<sup>6</sup> A public employee is generally defined as a person employed by a public employer.<sup>7</sup> Collective bargaining is required between the public employer and the bargaining agent of public employees in the following areas: wages, hours, and terms and conditions of employment.<sup>8</sup>

##### Health Insurance Premium Computation

When underwriting a group for health insurance, the insurer takes a number of factors into consideration. These can include:

- Benefit design
- Likely number of enrollees, plus dependents
- Age of enrollees
- Medical history or claims experience of participants, to include dependents
- Percent of employer contribution towards the premium
- Potential near-term changes in the size of the risk pool

Insurers can provide various rate tier structures. These include:

- Employee only
- Employee plus spouse

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<sup>1</sup> Section 163.01(4), F.S.

<sup>2</sup> Section 112.08(1), F.S.

<sup>3</sup> Section 112.08(2)(a), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Section 112.08(2)(a) and (b), F.S.

<sup>6</sup> Section 447.203(2), F.S.

<sup>7</sup> Section 447.203(3), F.S.

<sup>8</sup> Section 447.309(1), F.S.

- Employee plus one dependent
- Employee plus child(ren)
- Family {Employee, Spouse, and Child(ren)}

The benefit design, tier structure, and employer contribution for school districts is not standardized throughout the state.

### Educational Consortia

Regional consortium service organizations are authorized for small school districts pursuant to s. 1001.451, F.S. In that statutory arrangement, school districts with fewer than 20,000 un-weighted full-time equivalent students, the four university laboratory schools, and the Florida School for the Deaf and Blind are permitted to aggregate ten common administrative functions. At least three of the following functions must be included in that aggregation:

- Exceptional student education
- Teacher education centers
- Environmental education
- Federal grant procurement and coordination
- Data processing
- Health insurance
- Risk management insurance
- Staff development
- Purchasing
- Planning and accountability

School districts with four or more members could apply for Department of Education incentive grants, although the grant eligibility was subject to partial funding and will expire in its entirety July 1, 2011.

The bill leaves unstated how such an organization is to be constituted, whether the interlocal agreement identifies a lead school district as the principal organizer, or whether this is to be an incorporated entity formed by the districts themselves. While the health insurance component is the largest single expenditure among the ten components identified under s. 1001.451, F.S., it is also the only one that is subject to state and federal regulatory compliance.

School districts participating in a consortium under s. 1001.451, F.S., will have to examine their participatory role as the effect of this bill could create an inducement to leave their current arrangement or to sponsor participation beyond their current membership since there are no student enrollment caps.

There are three regional consortia participating under s. 1001.451, F.S.: the North East Florida Educational Consortium (NEFEC); the Heartland Educational Consortium (HEC); and the Panhandle Area Education Consortium (PAEC).

### **Effect of Proposed Changes**

The bill requires school districts to enter into interlocal agreements to establish the School District Insurance Consortium (Consortium) for the provision of health, accident, and hospitalization insurance. A school board may opt out of the plan if, at a duly noticed public meeting, it determines that the purchase of insurance outside of the plan procured through the interlocal agreement is financially advantageous to the school district.

The Consortium is managed by a nine-member board of directors, with representation as follows:

- Three members who are elected school board members appointed by the Florida School Boards Association

- Three members who are elected or appointed school superintendents appointed by the Florida Association of District School Superintendents
- Two members who are public school teachers or support personnel appointed by the Florida Education Association
- One member who has experience in operating employee benefit systems.

Members serve two-year terms. It appears that reappointments are authorized. The board of directors is not paid for service to the board, but is authorized to hire staff or contract for staffing services.

The bill makes participation in the competitive bid process mandatory for Consortium-purchased insurance, consistent with current law on group insurance purchases by local governments. Insurance may be purchased for statewide or regional use, and if regional, the Consortium must include districts of different sizes. Multiple providers are authorized.

School districts are required to collectively bargain for all units of employees who will be provided insurance, consistent with current law.

The Department of Management Services must provide technical services to the Consortium, as requested.

To opt-out, a school board must hold a properly noticed public meeting and find that it is less expensive to purchase insurance elsewhere. Therefore, some school districts may continue to purchase insurance independently.

This bill takes effect July 1, 2011, with application to begin upon the latter of the date of July 1, 2012, or upon expiration or renewal of existing insurance contracts.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 112.08, F.S., by requiring school districts to procure group health insurance through a purchasing interlocal agreement.

Section 2. Provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

See, Section D FISCAL COMMENTS

##### 2. Expenditures:

See, Section D FISCAL COMMENTS

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

See, Section D FISCAL COMMENTS

##### 2. Expenditures:

See, Section D FISCAL COMMENTS

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

With a greater volume of participants in the insurance pool, better benefits may be offered, resulting in cost savings for claimants. However, several challenges to insurance providers are noted:

- The opt-out provision creates the possibility that a district within the pool that can acquire more advantageous rates due to its participants' health, age, and experience will leave the Consortium. As a result, an insurance carrier offering to bid on the group as a whole will likely make conservative assumptions (with increasing rates) due to the exigency of an opt-out. If a district opts out, the carrier's response may be to raise rates further in order to cover the participant loss. This could result in more districts leaving the group for more advantageous rates.
- The bill requires school districts to engage in collective bargaining with regard to the insurance coverage that is offered by the carrier(s). It is unclear how long it will take to reach a collective agreement, depending upon the different types and levels of coverage offered by the carrier(s) and depending upon the number of participating districts and the intrinsic differences between individual employee organizations. In addition, collective bargaining contracts typically have terms lasting several years. It is unlikely that the terms for agreements among the school districts in the state, or within any region, are synchronized.

#### D. FISCAL COMMENTS:

Based on notes from the Senate analysis on CS/SB 2580, from the 2010 Regular Session, the Department of Education indicated that "economies of scale through joint purchases of group insurance will likely result in a cost savings to school districts, with the amount indeterminate at this time."<sup>9</sup>

The 2010 Senate analysis also noted an unknown fiscal impact to the Department of Management Services in providing technical services to the Consortium, as needed, because the scope of "technical services" is not defined.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None noted.

#### B. RULE-MAKING AUTHORITY:

The bill provides no rule-making authority.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill specifies that a geographic group of districts shall include school districts of varying size. However, there are no definitions or guidelines provided for use in determining size categories.

The expiration date for existing contracts with bargaining units is unknown. If dates differ for contiguous school districts, it may be challenging in aligning contracts with the benefit plan year.

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<sup>9</sup> <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s2580.wpsc.pdf> The substance of this bill was filed as HB 1021 in the 2010 Regular Session. The House bill died without a hearing. The Senate companion, CS/SB 2580, passed the Senate and died in House Messages.

The "technical services" required by the Department of Management Services to the Consortium at the request of the board of directors request is not defined, consequently, the Department may be unable to budget for this service adequately.

The board of directors is authorized to employ staff or contract for staffing services. The bill is silent as to how the board will pay for such services.

The potential pool of participants may be affected if any of the school districts are self-insured.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**