

STORAGE NAME: h4149s1a.gg

DATE: April 21, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4149

RELATING TO: Department of Management Services

SPONSOR(S): Committee on Governmental Operations and Representatives Reddick and others

COMPANION BILL(S): 1ST ENG/CS/SB 1132 (s), HB 1969 (c)

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2) CIVIL JUSTICE & CLAIMS (W/D)
 - (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 10 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

This bill updates organizational structure changes to the Department of Management Services resulting from the implementation of Performance-Based Program Budgeting; makes technical changes to several state employment service programs overseen by the agency; makes internal nomenclature changes to the state group health insurance program; and updates prescription drug payment levels and benefit recovery terms for that employee benefit plan.

This bill clarifies and corrects cross references where necessary; modifies enabling language to accurately reflect responsibilities of the Division of State Group Insurance; and updates language regarding state payment of premiums to incorporate recent changes to ss. 112.19 and 112.191, F.S. This bill also removes the Director of the Division of State Group Insurance from membership on the Florida State Group Insurance Council and clarifies the division's role in providing staff support to the council.

There may be limited fiscal savings and minimal increased costs associated with the enactment of this bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Department of Management Services (DMS) was created in 1991 as part of a general government reorganization. It is the successor agency to the previously separate Departments of Administration and General Services. In its current capacity, DMS provides overall administrative guidance in state agency personnel, telecommunications, and infrastructure services. The Florida Retirement System, The Division of Administrative Hearings, and The Division of State Group Insurance are administered under the umbrella of DMS, however, actual operational authority is conferred upon these separate autonomous divisions in these jurisdictional areas.

DMS was one of the first agencies to be affected by the advent of Performance-Based Program Budgeting enacted by the Legislature in 1994. In the reformatting of its delivery structure, the agency has replaced many of its previous line divisions with programs. All DMS-managed services fall under one of these distinct program categories: Workforce, Support, Technology, and Facilities.

The 1997 Legislature gave independent status to the previous DMS Division of State Employee Health Insurance, now the Division of State Group Insurance, in partial response to documented disruptions in the quality and costs of administration of state employee health benefit programs. The more autonomous division now has a separate policy advisory council which provides advice on the conduct of its operations but cannot assert any authority over day-to-day administration.

B. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 20.22, F.S., to retitle the DMS Office of Labor Relations as the Chief Labor Negotiator; provides nomenclature changes to properly record the Division of State Group Insurance as the successor to the Division of State Employee Insurance; removes the designation of the director of the Division of State Group Insurance as an ex-officio member of the State Group Insurance Council and provides that the director assume responsibility for ensuring provision of administrative, analytical, and technical support to the council; and, removes the provision currently prohibiting the council, or its members, from "the granting, denial, suspension, or revocation of any license or permit issued by the division".

Section 2. Amends s. 110.109, F.S., to delete separate statutory authorization requiring a departmental personnel audit of state agencies to be transmitted to the Governor, Presiding Legislative Branch Officers, and the Auditor General.

Section 3. Amends s. 110.1099, F.S., to permit an agency or the judicial branch, by agreement entered into with the employee, to recover training fees in excess of \$1,000 from employees who voluntarily terminate employment within four years of the conclusion of the training. An exception is provided when the training is required by the agency or judicial branch.

- Section 4. Amends s. 110.112, F.S., to repeal a separate statutory requirement for an annual affirmative action report. This requirement will continue as a part of the agency's annual workforce report. Eliminates the requirement that the department submit certain post audit reports to the Governor, Senate President, House Speaker, and Auditor General.
- Section 5. Amends s. 110.1165, F.S., which currently gives employees redress for damages resulting from the reliance upon erroneous agency personnel information which detrimentally affects their salary or benefits. This section is amended to reinstate the current two-year statute of limitations for the purpose of seeking relief and applies in all disputes over compensation for work performed by state officers or employees.
- Section 6. Amends s. 110.123, F.S., relating to the state group insurance program; amends the definition of "enrollee", which means all state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees, to include terminated employees or individuals with continuation coverage; provides a definition of "health plan member" as inclusive of enrollees and dependents in both the state group health insurance plan or in a health maintenance organization plan; provides a definition of "state-contracted HMO" to mean any health maintenance organization under contract with the division to participate in the state group insurance program.

The Division of State Group Insurance is given the authority, identical to that enjoyed by departmental heads, to designate up to ten managerial positions as exempt from career service.

Several nomenclature changes are made to take note of the title change of the division and to refer to the insurance "plan" as an insurance "program".

An existing provision, s. 112.19, F.S., which requires the employer to pay insurance premiums on behalf of surviving family members for designated public safety officers who suffer catastrophic injuries or are killed in the line of duty is extended to firefighters.

Grammatical and syntactical changes to a public records exemption governing the confidentiality of state group insurance records is further provided in s. (9) of this section. There is no expansion of the exemption relative to the provisions contained in Art. I, s. 24(c), State Constitution.

- Section 7. Amends s. 110.12315, F.S., relating to the state group prescription drug program, to make the following changes: existing statutory language specifying employee drug co-payments is deleted. That authority is transferred to the General Appropriations Act or relevant implementing legislation; the section continues the current dispensing fee for retail pharmacies; continues to provide for a mail-order drug program for program participants; and provides for a uniform reimbursement rate for participating retail pharmacies. Additionally, participating pharmacies must maintain an on-line computer system to verify participant eligibility and must agree to

make their records available for utilization review actions undertaken by the program.

Section 8. Amends s. 110.1232, F.S., to provide technical nomenclature changes only.

Section 9. Amends s. 110.1234, F.S., to change "department" to "division".

Section 10. Amends s. 110.1238, F.S., to delete reference to an overcharge refund cap of \$1,000 per admission; provides for a refund cap of \$1,000 maximum which would allow for refund payments on outpatient and physician services in addition to hospital admissions.

Section 11. Amends s. 110.1245, F.S., to change the report submission deadline for meritorious service awards from April 1 of each year to annually and to raise the maximum dollar amount of the award threshold from \$75 to \$100 for recognition awards, from \$50 to \$100 for recognition of retiring state employees and board or commission members whose terms are expiring, and from \$10 to \$50 for pins and certificates.

Section 12. Amends s. 110.161, F.S., to provide that the pre-tax benefits program is no longer in its developmental stages but is a continuing and operational part of the state employee benefit program.

Section 13. Amends s. 110.181, F.S., to provide that the costs to coordinate the annual Florida State Employees' Charitable Campaign shall not be reimbursed to the DMS if such costs are otherwise appropriated by the Legislature.

Section 14. Amends s. 110.201, F.S., requiring DMS to publish and distribute an annual workforce report with regard to the state's human resources.

Section 15. Amends s. 110.205, F.S., permitting each department to designate an additional position in the Senior Management Service (SMS) provided the position reports directly to the agency head or to a position in SMS and provided that any additional costs are absorbed within the existing budget of that department. Additionally, the assistant director in the Division of State Group Insurance and the Division of Retirement is exempted from career service.

Section 16. Amends s. 110.235, F.S., deleting an annual report submission on state agency personnel training activities.

Section 17. Amends s. 110.503, F.S., to provide a \$75 maximum expenditure cap for personnel recognition awards involving volunteers.

Section 18. Amends s. 110.504, F.S., to provide the same \$75 maximum expenditure cap relating to volunteer benefits.

Section 19. Amends s. 112.061, F.S., permitting the designee of an agency head to approve subsistence payments when injury or illness prevents a traveler from the performance of official duties.

- Section 20. Amends s. 121.025, F.S., exempting the director and assistant director of the Division of Retirement from the Career Service System and to permit the designation, by the director, of up to ten positions as exempt from career service based on their policy making and managerial responsibilities.
- Section 21. Amends s. 215.196, to replace "Division of Building Construction" with "facilities development activities of the DMS".
- Section 22. Amends s. 215.422, F.S., deleting a requirement that each employee responsible for the processing of vendor payments annually sign a statement indicating personal acknowledgment of the interest penalty sanctions for failure to timely process such invoices. Additionally, the identification of the name of the vendor ombudsman in the Department of Banking and Finance is deleted; the office and its telephone number remains.
- Section 23. Amends s. 215.94, F.S., to cross-reference to the new title of the Division of State Group Insurance with reference to the Cooperative Personnel Employment Subsystem.
- Section 24. Amends s. 216.011, F.S., to increase from \$500 to \$1,000 and from \$100 to \$250, respectively, the threshold for tangible, nonconsumable personal property and books which are defined as *operating capital outlay* under definitions provided in the state budgeting system.
- Sections 25, 26, 27, and 28. Amend ss. 255.249, 255.25, and 255.257, F.S., respectively, to increase from 3,000 to 5,000 square feet the threshold beyond which DMS shall review state agency leases, obtain prior approval, or require the submission of data on energy consumption and cost; provides an exception from competitive bidding for state agency leases negotiated pursuant to a pilot project to be established by the DMS; directs the DMS to undertake a pilot project in Hillsborough, Leon, Levy, and Orange Counties for a contracted tenant broker to assist state agencies in locating suitable private sector leases; designs the pilot project to accomplish specific goals; and provides a repeal date for the pilot project effective July 1, 2000.
- Section 29. Amends s. 255.503, F.S., substituting "DMS" for the "Division of Facilities Management" in the prescription of general powers and duties relating to facilities management. Additionally, each agency head is charged with implementing any gubernatorial issued executive order, regarding an emergency, which necessitates the closing of affected facilities. In other emergency situations, the agency head is directed to make the decision on facility closings unless the duration is greater than two days, in which DMS approval is required. In jointly occupied facilities operated by DMS, the authority to initiate a closing rests with both the occupant and the DMS.
- Sections 30, 31, and 32. Amend ss. 267.075, 272.18, and 272.185, F.S., providing nomenclature changes for the Grove Advisory Council, the Governor's Mansion Commission, and maintenance of the Governor's mansion. Existing law in s. 272.185, F.S., requiring the Governor's Mansion budget to be submitted by DMS is deleted.

- Section 33. Amends s. 273.02, F. S., to increase from \$500 to \$1,000 for tangible personal property, and from \$100 to \$250, in the case of books, a threshold requirement that such items valued below these levels be tagged, recorded in the property records, and be subject to inventory.
- Section 34. Amends s. 273.055, F.S., providing that all moneys received from the sale of state-owned tangible personal property shall be retained for the acquisition of exchange and surplus property and all necessary operating expenses rather than being deposited in the General Revenue Fund.
- Sections 35, 36, 37, and 38. Amend ss. 281.07, 282.105, 282.111, and 287.042, F.S., respectively, providing nomenclature changes for the Capitol Police, statewide regional law enforcement communications, and procedures governing term contract bids. In the latter section, the title to the alternative electronic publication network is changed from "Florida Communities Network" to "Government Services Direct". Section 282.105, F.S., is amended to allow private, nonprofit elementary and secondary schools to use the state Suncom Network and to be eligible for rates and services on the same basis as public schools, providing these nonpublic schools do not have an endowment in excess of \$50 million.
- Section 39. Amends s. 287.057, F.S., providing nomenclature changes relating to performance budgeting changes for procurement of commodities or contractual services.
- Section 40. Amends s. 287.058, F.S., regarding contract documents; providing that agreements between the contractor, subcontractors or other parties performing services and receiving state funds, either directly or indirectly, shall also contain a provision allowing unilateral cancellation by the contractor or by the agency for refusal by the subcontractor or other party to allow public access to all documents, papers, letters, or other such material subject to the provisions of chapter 119 and made or received by the subcontractor or other party in conjunction with the contract.
- Sections 41 and 42. Amend ss. 287.16 and 287.18, F.S., providing nomenclature changes relating to motor pool management and motor pool maintenance and repair, respectively.
- Sections 43, 44, & 45. Amend ss. 365.171, 401.021, and 401.027, F.S., providing nomenclature changes relating to the emergency "911" telephone system, statewide telecommunications, and federal telecommunications financial assistance, respectively.
- Section 46. Amends s. 446.045, F.S., extending the repeal date for the State Apprenticeship Council until October 1, 2008.
- Section 47. Amends s. 446.604, F.S., substituting the term "Government Services Direct" in place of "Florida Communities Network" for the purposes of electronic posting of one-stop career employment centers.

Section 48. Amends s. 447.208, F.S., providing that the computation of attorney's fees in pending and future public sector labor law cases on demotions, suspensions, and dismissals shall be governed by the standard of reasonableness in comparison to an hourly rate charged for similar Career Service System appeals in the same geographic area.

Section 49. Repeals ss. 110.407 and 110.607, F.S., relating to a quadrennial requirement for performance audits of the Senior Management Service and the Select Exempt Service.

Section 50. Provides an effective date of upon becoming a law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

For any positions at the Division of State Group Insurance, the Division of Retirement or any Executive Branch agency that are classified Senior Management Service (SMS), there will be an increased employee benefit derived from this designation. Whether there is any additional cost to the agency is a function of its own salary lapse and salary rate experience. It may be possible for the affected entities to assume any costs within their existing budget authority.

b. If an agency or program is eliminated or reduced:

This bill does not eliminate or reduce an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

This bill transfers from general law to the General Appropriations Act the setting of employee co-payments for prescription drugs.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 20.22, 110.109, 110.112, 110.1099, 110.1165, 110.123, 110.12315, 110.1232, 110.1234, 110.1238, 110.1245, 110.161, 110.181, 110.201, 110.205, 110.235, 110.503, 110.504, 112.061, 121.025, 215.196, 215.422, 215.94, 216.011, 255.249, 255.25, 255.257, 255.503, 267.075, 272.18, 272.185, 273.02, 273.055, 281.07, 282.111, 287.042, 287.057, 287.058, 287.16, 287.18, 365.171, 401.021, 401.027, 446.045, 446.604, and 447.208, F.S. Creates s. 282.105, F.S. Repeals ss. 110.407 and 110.607, F.S.

E. SECTION-BY-SECTION RESEARCH:

Please refer to Section II. B., Effect of Proposed Changes.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

There will be minimal cost savings to the DMS in the consolidation of the several separate reports repealed in this legislation. These cost avoidances will produce lower printing and distribution costs but will not have any appreciable effect on salaries and benefits.

The bill transfers from general law to the General Appropriations Act the setting of employee co-payments for prescription drugs. The current levels, \$5 for generic drug prescription and \$15 per legend drug prescription, have not been changed for several years. Consultant reports from the William Mercer Company, under contract to the Division of State Group Insurance, have indicated that the effective freezing of these levels in statute has caused the plan to suffer progressively increasing financial losses. In a smaller sense this has contributed to the significant overall financial difficulties sustained in the entire benefit plan over the past two years. Also

affecting this loss has been utilization of the benefit plan and disproportionate costs experienced in the mail-order drug component. The latter has not yielded expected savings. The effect of this change will permit premium levels and co-payments to be set annually in the General Appropriations Act. Based upon recommendations provided in the Governor's *Recommended Budget* for the next fiscal year, employee share of premium costs are expected to rise for both prescription drugs and health insurance, in the latter instance, in two separate 15% increments.

The bill provides an increase in the nominal stipend paid to employees or volunteers for the performance of faithful service. These amounts will be paid from funds otherwise appropriated to the agency and will not necessarily impose additional financial burdens. In the 1996 Calendar Year, 7,830 employees were recognized for superior accomplishment and shared \$1,184,218 in awards. During that same period, state agencies spent an additional \$61,163 to recognize 117 employees whose adopted productivity and performance suggestions produced \$338,385 in savings. Raising the upper award limit will permit agencies to increase award amounts, provided their budgets permit it.

Raising the respective thresholds for inventory records of tangible personal property from \$500 to \$1,000 and for books from \$100 to \$250 will reduce workload requirements, however, the effect will vary with each agency and is difficult to estimate at this time.

The authority to allow the Division of Retirement and the Division of State Group Insurance to designate up to 10 positions in the Senior Management Service (SMS), and to allow each agency head to designate one additional position in the SMS is granted. Since the designation is discretionary with the agency, it is not possible to determine exactly how many individuals will, in fact, receive this status. Whether or not there will be any additional cost to the agency is a function of the agency's salary lapse and salary rate experience. It may be possible for the affected agencies to assume these costs within their existing budget authority.

Reducing the scale of the DMS review of state agency leases by increasing the threshold of review from 3,000 to 5,000 square feet should produce a workload reduction. The agency reports that it is unable to predict how its future actions will be affected by other state agency leasing practices which rise above or fall below this new review level.

The bill establishes a new standard for the computation of attorney's fees in career service cases. The direction of impact suggests a lower award per case, however, the precise effect is indeterminable at this time.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

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 expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties 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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 24, 1998, the Committee on Governmental Operations adopted three amendments to PCS/HB 4149 as follows:

Amendment 1 provides an exception from competitive bidding for state agency leases negotiated pursuant to a pilot project to be established by the Department of Management Services; directs the Department of Management Services to undertake a pilot project in Hillsborough, Leon, Levy, and Orange Counties for a contracted tenant broker to assist state agencies in locating suitable private sector leases; designs the pilot project to accomplish specific goals; and provides a repeal date for the pilot project effective July 1, 2000.

Amendment 2 extends the repeal date for the State Apprenticeship Council until October 1, 2008.

Amendment 3 allows private, nonprofit elementary and secondary schools to use the state Suncom Network and to be eligible for rates and services on the same basis as public schools, providing these nonpublic schools do not have an endowment in excess of \$50 million.

These amendments were incorporated into HB 4149 to create CS/HB 4149.

On April 21, 1998, the Committee on General Government Appropriations adopted two amendments.

Amendment 1 prohibits state employees from using voice mail while at their workstations, and requires voice mail systems to have a mechanism for a caller to reach a nonelectronic attendant when an employee is not available.

Amendment 2 directs agency heads, with oversight from agency's inspector general, to complete a review by December 31, 2000, to determine if assigned motor vehicles are being used in the most efficient manner using a break-even mileage analysis developed by the Department of Management Services. Additionally, agency heads are directed to follow specific criteria for special assignment of motor vehicles.

STORAGE NAME: h4149s1a.gg

DATE: April 21, 1998

PAGE 14

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Legislative Research Director:

Jimmy O. Helms

Jimmy O. Helms

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Cynthia P. Kelly