

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 875 Public Employee Charitable Campaigns  
**SPONSOR(S):** Government Efficiency & Accountability Council and Skidmore  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on State Affairs</u>	<u>5 Y, 2 N</u>	<u>Ligas</u>	<u>Williamson</u>
2) <u>Government Efficiency &amp; Accountability Council</u>	<u>8 Y, 5 N, As CS</u>	<u>Ligas</u>	<u>Cooper</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The Florida State Employees' Charitable Campaign (FSECC) is the only statutorily-recognized comprehensive giving program that provides state employees with a payroll deduction system for their voluntary donations to qualified charitable non-profit organizations.

This bill creates an additional campaign called the Florida Public Employee's Charitable Campaign. It authorizes and permits the state, in coordination with the payroll system of the Department of Financial Services (DFS), to establish and maintain an annual Florida Public Employees' Charitable Campaign (campaign). This annual fundraising drive is the only authorized charitable fundraising drive directed toward public employees, with the exception of state employees, within work areas during work hours, and for which the public employer will provide payroll deduction.

Participation in the annual campaign is limited to any nonprofit charitable federation or member agency that has as its principal mission public health and welfare, education, environmental restoration and conservation, civil and human rights; or the relief of human suffering and poverty, except those charitable organizations the currently participate in an established charitable campaign. The bill provides requirements that must be met in order to qualify as a nonprofit charitable federation or member agency.

The state is not required to select a fiscal agent to act on its behalf for campaign fund distribution. It may, however, select through the competitive procurement process a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations. The fiscal agent is responsible for furnishing to DFS and participating charitable federations and member agencies a report of the accounting and distribution activities. Upon reasonable notice and request, all financial records associated with the fiscal intermediary duties and operations are open for inspection to the public.

### FISCAL IMPACT

According to DFS, if implemented, a new payroll system will be required to manage the requested deductions. As such, the fiscal impact to the state is indeterminate; however, the cost is at least \$20 million for PeopleSoft Software but less than \$350 million currently paid for the Convergys contract.

The bill does not appear to have a fiscal impact on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates the Florida Public Employees' Charitable Campaign.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The Florida State Employees' Charitable Campaign (FSECC) is the only statutorily-recognized comprehensive giving program that provides state employees with a payroll deduction system for their voluntary donations to qualified charitable non-profit organizations.<sup>1</sup> The Department of Management Services (DMS) and the Department of Financial Services (DFS) provide administrative support for the campaign. DMS competitively selects a fiscal agent for the processing of contributions to the designated charities and DFS, as paymaster, provides the deduction codes through the state payroll system. The approved fiscal agent is permitted reasonable costs for the conduct of the campaign and must reimburse the DMS for the costs of coordinating the campaign, not to exceed one percent of gross pledges. In each fiscal agent area, local steering committees, composed of state employees selected by the fiscal agent, assist in conducting the campaign and direct the distribution of undesignated funds.<sup>2</sup>

##### Effect of Bill

The bill creates the Florida Public Employee's Charitable Campaign. It authorizes and permits the state,<sup>3</sup> in coordination with the payroll system of the Department of Financial Services (DFS), to establish and maintain an annual Florida Public Employees' Charitable Campaign (campaign). This annual fundraising drive is the only authorized charitable fundraising drive directed toward public employees, with the exception of state employees, within work areas during work hours, and for which the public employer will provide payroll deduction. Local government employers are authorized to hold their campaign at any time during the year either in conjunction or separately from any current charitable workplace giving campaign.

The state, in concurrence with DFS, is authorized and permitted to make deductions from the salary or wage of any employee as authorized and requested by that employee. All contributions to the campaign, on the part of both officers and employees, must be voluntary.

Applicable public employers must authorize deductions from the salaries or wages of its employees of an amount specified by each employee for payment to an eligible charitable organization. The request for deduction may be withdrawn by the employee at any time by filing a written notification of withdrawal with the applicable treasurer or responsible official in charge of the payroll system.

Participation in the annual campaign must be limited to any nonprofit charitable federation<sup>4</sup> or member agency<sup>5</sup> that has as its principal mission one of the following:

- Public health and welfare;

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<sup>1</sup> Section 110.181, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> The state or any of its departments, bureaus, commissions, and officers are authorized and permitted to establish and maintain an annual campaign.

<sup>4</sup> "Federation" means a federation of not-for-profit charitable organizations which have voluntarily joined together for purposes of raising and distributing contributions for and among themselves.

<sup>5</sup> "Member agency" means a not-for-profit charitable organization belonging to a federation.

- Education;
- Environmental restoration and conservation;
- Civil and human rights; or
- Relief of human suffering and poverty.

To qualify<sup>6</sup> as a nonprofit charitable federation or member agency, one must:

- Have had an office open at least 20 hours per week employing full-time or part-time employees in this state for the last three years.
- Represent at least 10 health and human services, social welfare, or environmental agencies that also have an office open at least 20 hours per week employing full time or part-time employees.
- Document direct services in the local service area in which the campaign takes place in order to participate in any local public employer campaign.
- Be governed by an active, voluntary board that exercises administrative control.

Any nonprofit charitable federation and member agency participating in the campaign must have its financial records audited annually by an independent public accountant.

An independent charitable organization is exempt from the federation or member agency membership requirement if the organization currently participates in an established public employer campaign and is in compliance with certain provisions.

Any public employer that conducts a charitable workplace giving campaign is not required to select a fiscal agent to act on its behalf for campaign fund distribution. They may, however, select through the competitive procurement process a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations. A local committee must be established by each public employer to assist in conducting the campaign.

The fiscal agent must withhold the reasonable costs for conducting the campaign and for accounting and distribution to the participating federations and member agencies not to exceed 12 percent of gross campaign pledges for all participating charitable organizations. The fiscal agent also must reimburse the public employer the actual cost, not to exceed 1 percent of gross pledges, for coordinating the campaign in accordance with the rules of the public employer. The fiscal agent is responsible for furnishing to DFS and participating charitable federations and member agencies a report of the accounting and distribution activities. Upon reasonable notice and request, all financial records associated with the fiscal intermediary duties and operations are open for inspection to the public.

Participating charitable organizations are to receive the same percentage of undesignated funds raised in any campaign as the percentage of designated funds they receive.

The bill provides definitions for “federation,” “member agency,” “public employee,” and “public employer.”

#### C. SECTION DIRECTORY:

Section 1 creates s. 110.182, F.S., to create the Florida Public Employees’ Charitable Campaign.

Section 2 provides an effective date of July 1, 2007.

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<sup>6</sup> Federations and member agencies ineligible to participate in the campaign include, but are not limited to, federations and member agencies: whose fundraising and administrative expenses exceed 25 percent, unless extraordinary circumstances can be demonstrated; whose activities contain an element that is more than incidentally political in nature or whose activities are primarily political, religious, professional, or fraternal in nature; that discriminate against any individual or group on account of race, color, religion, sex, national origin, age, handicap, or political affiliation; not properly registered as charitable organizations as required by the Solicitation of Contributions Act; or that have not received tax-exempt status under s. 501(c)(3), Internal Revenue Code.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. According to DFS, if implemented, a new payroll system will be required to manage the requested deductions. As such, the fiscal impact to the state is indeterminate; however, the cost is at least \$20 million for PeopleSoft Software but less than \$350 million currently paid for the Convergys contract.<sup>7</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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 the revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill appears to create a new statewide campaign that duplicates the Florida State Employees' Charitable Campaign. The sponsor intends to file an amendment to remove the duplication. The intent was to create a statewide campaign at the local level.

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<sup>7</sup> Email from Patty Cromartie, DFS, March 21, 2007 (on file with committee); email from Doug Darling, DFS, March 26, 2007 (on file with committee).

#### D. STATEMENT OF THE SPONSOR

As stated in section C of the analysis, the amendment to the bill removes duplicated language. The amended bill will allow public employees the opportunity to donate, on a voluntary basis, to the charity of his or her choice.

As such, a new payroll system would not be required. The state will not have any financial oversight in the campaign. Charitable workplace giving campaigns would be in coordination with the payroll departments of public employers.

The bill does not duplicate the state employee campaign, as the criteria for inclusion is different. Agencies must provide available services in the local campaign area.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 28, 2007 the Committee on State Affairs adopted a strike-all amendment and the committee reported the bill favorable with amendment.

The amendment:

- Clarifies that the Florida Public Employees' Charitable Campaign applies to local campaigns and not to the state campaign.
- Provides definitions for both "public employee" and "public employer".
- Reduces from 5 years to 3 years the amount of time that a federation or member agency must have had an office open in this state.
- Provides that local unaffiliated eligible charitable organizations may apply to a participating federation for inclusion in the local public employer campaign, provided the charitable organization meets the eligibility requirements of the participating federation. This is to ensure that all local eligible charitable organizations can participate in the campaign.
- Requires representation of all charitable organizations equally and fairly in each Florida Public Employees' Charitable Campaign.

On April 18, 2007, the Government Efficiency & Accountability Council adopted a strike-all amendment which:

- Authorizes local government employers to hold their campaign at any time during the year either in conjunction or separately from any current charitable workplace giving campaign.
- Exempts independent charitable organizations from the federation or member agency membership requirement if the organization currently participates in an established public employer campaign and meets certain requirements.
- Requires fiscal agents to withhold reasonable costs for conducting the campaign, not to exceed 12 percent of the gross campaign pledges. The fiscal agent must reimburse the public employer the actual cost, not to exceed 1 percent of gross pledges, for coordinating the campaign.

The council reported HB 875 favorably with a council substitute.