Appropriations Committee

Tuesday, January 9, 2018
4:30 PM – 6:30 PM
212 Knott Building

REVISED

Meeting Packet

Richard Corcoran
Speaker

Carlos Trujillo
Chair

The Florida House of Representatives

Appropriations Committee

Richard Corcoran
Speaker

Carlos Trujillo
Chair

AGENDA

Tuesday, January 9, 2018
212 Knott Building
4:30 PM – 6:30 PM

I. Call to Order/Roll Call

II. Opening Remarks by Chair Trujillo

Consideration of the following bill(s):

HB 281 Incarcerated Parents by Williams, Daniels

HB 517 State Employees' Prescription Drug Program by Magar

HJR 7001 Supermajority Vote for State Taxes or Fees by Ways & Means Committee, Leek

III. Closing Remarks and Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4810

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 281 Incarcerated Parents
SPONSOR(S): Williams, Daniels & others
TIED BILLS: **IDEN./SIM. BILLS:** SB 522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	14 Y, 0 N	Grabowski	Brazzell
2) Appropriations Committee		Pridgeon	Leznoff
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Chapter 39, F.S., creates Florida's child welfare system that aims to protect children and prevent abuse, abandonment, and neglect.

DCF's child welfare practice model (model) standardizes the approach to risk assessment and decision-making used to determine a child's safety. The model emphasizes parent engagement and empowerment as well as the training and support of child welfare professionals to assess child safety. It also emphasizes a family-centered practice with the goal of keeping children in their homes whenever possible.

One key element of the model involves development of a case plan, which serves as an outline of tasks and requirements that must be met to facilitate the permanency goal of a child. Section 39.6011, F.S., details the development of the case plan and who must be involved throughout the case planning process. This section also details what must be in the case plan, such as descriptions of the identified problems, the permanency goal, timelines, and notice requirements.

HB 281 further defines the role of incarcerated parents in the development and execution of case plans associated with their children. Although DCF is already required to engage incarcerated parents in the dependency case process, the bill provides a set of explicit responsibilities that must be met by both DCF and incarcerated parents throughout the dependency case process.

The bill requires that:

- DCF must include incarcerated parents in case planning and develop case plans that give some consideration to limitations faced by incarcerated persons,
- DCF must coordinate efforts with relevant correctional facilities to determine what services and resources may be available to incarcerated parents,
- Case plans must be amended as individuals become incarcerated or are released from incarceration, and
- Incarcerated parents are responsible for complying with case plan requirements and the requirements of relevant correctional facilities.

The bill may have an indeterminate negative fiscal impact on the DCF and Department of Corrections. Current departmental resources are sufficient to absorb the added workload. The bill will have no impact on local governments.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Child Welfare System

Chapter 39, F.S., creates Florida's child welfare system that aims to protect children and prevent abuse, abandonment, and neglect.[1] The Department of Children and Families (DCF) works in partnership with local communities and the courts to ensure the timely permanency and well-being of children. During FY 2016-17, DCF and selected county sheriffs' offices contracted as child protective investigative staff conducted more than 220,000 investigations. The department ultimately served more than 38,000 children in out-of-home care during the same period. Approximately 41% of children removed from their homes achieved permanency within 12 months, based on 2016 data – which placed Florida just above the national average of 40.5%.[2]

Practice Model

DCF's child welfare practice model (model) standardizes the approach to risk assessment and decision making used to determine a child's safety.[3] The model seeks to achieve the goals of safety, permanency, and child and family well-being.[4] The model emphasizes parent engagement and empowerment as well as the training and support of child welfare professionals to assess child safety,[5] and emphasizes a family-centered practice with the goal of keeping children in their homes whenever possible.[6] DCF contracts with community-based care lead agencies to coordinate case management and services for families within the dependency system.

Dependency Case Process

When child welfare necessitates that DCF remove a child from his or her home, a series of dependency court proceedings must occur to adjudicate the child dependent and place him or her in out-of-home care, as indicated by the chart below:

---

[1] S. 39.001(8), F.S.
[2] Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, available at http://www.centerforchildwelfare.org/qa/cwkeyindicator/KI_Monthly_Report_Sept2017.pdf (last accessed November 5, 2017).
[3] Department of Children and Families, *2013 Year in Review*, available at: http://www.dcf.state.fl.us/admin/publications/year-in-review/2013/page19.shtml (last accessed October 31, 2017).
[4] The Department of Children and Families, *Florida's Child Welfare Practice Model*, available at: http://www.myflfamilies.com/service-programs/child-welfare/child-welfare-practice-model (last accessed October 31, 2017).
[5] Supra, FN 3.
[6] The Department of Children and Families, *2012 Year in Review*, available at: http://www.dcf.state.fl.us/admin/publications/year-in-review/2012/page9.shtml (last accessed October 31, 2017).

Proceeding	Description	Statute
Removal	The child's home is determined to be unsafe, and the child is removed	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Dependency Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment, to determine whether a child is dependent.	s. 39.507, F.S.
Disposition Hearing	Disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews and orders the case plan for the family and the appropriate placement of the child.	ss. 39. 506 and 39.521, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights (TPR)	After 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for TPR is filed.	ss. 39.802, 39.8055, 39.806, and 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for TPR. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for TPR.	s. 39.808, F.S.
TPR Adjudicatory Trial	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Federal Requirements for Permanency

Many of the federal requirements related to the dependency process can be traced to the Adoption and Safe Families Act (ASFA) of 1997.[7] The AFSA expanded the use of detailed case planning, while emphasizing the well-being of children at all critical points during the dependency case process.[8] It further requires that states make timely decisions regarding permanency. The permanency goal is enforced primarily via a requirement that states terminate the parental rights of children who have spent 15 or more months of the past 22 months in foster care.[9]

The ASFA also required that states participate in Child & Family Services Reviews (CSFRs) to identify and remedy potential weaknesses in their existing child welfare frameworks. Among the issues noted in Florida's 2016 CSFR were the challenges involved in actively engaging parents, particularly fathers, in the case planning process.[10]

[7] Public Law 105-89.
[8] Committee on Child Maltreatment Research, Policy, and Practice for the Next Decade: Phase II, New Directions in Child Abuse and Neglect Research (2004), available at https://www.ncbi.nlm.nih.gov/books/NBK195980/ (last accessed November 6, 2017).
[9] Id.
[10] Child and Family Services Reviews – Final Report on Florida (2016), U.S. Department of Health and Human Services, Children's Bureau, available at http://centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf (last accessed November 7, 2017).

Case Plans

Throughout the dependency process, DCF must develop and refine a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.[11] The case plan follows the child from the provision of voluntary services through dependency, or termination of parental rights.[12] Once a child is found dependent, a judge reviews the case plan, and if the judge accepts the case plan as drafted, orders the case plan to be followed.[13]

Section 39.6011, F.S., details the development of the case plan and who must be involved, such as the parent, guardian ad litem, and if appropriate, the child. This section also details what must be in the case plan, such as descriptions of the identified problems, the permanency goal, timelines, and notice requirements.

Section 39.6012, F.S., details the types of tasks and services that must be provided to the parents as well as the type of care that must be provided to the child. The services must be designed to improve the conditions in the home, facilitate the child's safe return to the home, ensure proper care of the child, and facilitate permanency. The case plan must describe each task with which the parent must comply and the services provided that address the identified problem in the home and all available information that is relevant to the child's care.

When determining whether to place a child back into the home he or she was removed from, or whether to move forward with another permanency option, the court seeks to determine whether the circumstances that caused the out-of-home placement have been remedied to the extent that the safety, well-being and health of the child are not endangered by an in-home placement.[14] To support the permanency goal, the court continues to monitor a parent's efforts to comply with the tasks assigned in the case plan.[15]

Case Plans Involving Incarcerated Parents

Recent research suggests that about 7% of all children in the United States have had lived with a parent who was incarcerated at some point.[16] There is a significant body of research which documents the negative impacts of parental incarceration on children. Among other insights, this research often highlights the virtues of reunification, when possible, and the importance of child welfare processes that actively engage incarcerated parents in the care of their children.[17]

Incarceration of a parent is not, in and of itself, sufficient grounds for the termination of that individual's parental rights.[18] Accordingly, DCF and the courts must engage with incarcerated parents when developing and implementing case plans. However, the incarceration of one or more parents can present significant challenges to the timely and appropriate permanency of children. Among these challenges are narrow visitation schedules, communication restrictions, and limited prisoner support services.[19]

---

[11] Ss, 39.6011 and 39.6012, F.S.
[12] S. 39.01(11), F.S.
[13] S. 39.521, F.S.
[14] S. 39.522, F.S.
[15] S. 39.621, F.S.
[16] David Murphey and P. Mae Cooper, Parents Behind Bars: What Happens to their Children? (October 2015), available at https://www.childtrends.org/wp-content/uploads/2015/10/2015-42ParentsBehindBars.pdf (last accessed November 3, 2017).
[17] Child Welfare Information Gateway. Child Welfare Practice With families affected by Parental Incarceration (October 2015), U.S. Department of Health and Human Services, Children's Bureau, available at https://www.childwelfare.gov/pubPDFs/parental_incarceration.pdf (last accessed November 3, 2017).
[18] Id.
[19] Annie E. Casey Foundation, When a Parent is Incarcerated: A Primer for Social Workers (2011), available at http://www.aecf.org/m//resourcedoc/aecf-WhenAParentIsIncarceratedPrimer-2011.pdf (last accessed November 1, 2017).

The Florida Department of Corrections (DOC) currently allows DCF staff access to inmates for relevant meetings and interviews. The DOC also contributes by approving transfers, when appropriate, for incarcerated parents to facilities which meet the inmate's programming needs; and by allowing incarcerated parents to have routine visits with their children, when appropriate.

The DOC provides inmates with access to a range of educational and vocational services that may help an incarcerated parent meet select goals attached to his/her case plan. Among the relevant resources offered by the DOC are substance abuse treatment, anger management programs, and parenting classes. DOC also provides high school diploma programs, literacy programs, and occupational training in fields such as carpentry, masonry, plumbing, and automotive technology. The DOC identifies which services are available at each facility in published annual reports and also on the department webpage for each facility.[20]

Effect of Proposed Changes

The bill specifically addresses the role of incarcerated parents in the case planning process. To include incarcerated parents more effectively in the development and execution of case plans, the bill requires DCF to:

- Initiate contact with the correctional facility in which a parent is being held to determine how the parent can participate in the preparation and execution of the case plan;
- Attach a list of services available at the relevant correctional facility to the case plan itself;
- Develop case plans that take into account the services and resources available to incarcerated parents in the facilities in which they reside;
- Provide flexibility within the case plan following the incarceration of a parent. If a parent becomes incarcerated after initial development of a case plan, the case plan must be amended if this incarceration may impact the permanency of the child. Such an amendment may include revisions to visitation arrangements between the child and incarcerated parent, identification of services available to the parent within the correctional facility, and modification of the stated permanency goal;
- Use the case plan to facilitate re-entry of an incarcerated parent. If an incarcerated parent is released prior to expiration of the case plan, the case plan must indicate which tasks will need to be completed post-release; and
- Document non-participation in the case plan. If an incarcerated parent does not participate in the development of the case plan, the Department must include a full explanation for this non-participation and detail any efforts made to secure the participation of the incarcerated parent.

The bill also reinforces the responsibility that lies with incarcerated parents in the development and execution of the case plan. Incarcerated parents must comply with procedures established by the relevant correctional facility and to maintain contact with impacted children as provided in the case plan. The bill does not, however, create any additional obligations for relevant correctional facilities beyond those that already exist in statute.

The bill also does not prevent DCF or the court from using discretion in determining whether reunification of an incarcerated parent with his or her child is in the best interest of the child.[21]

The bill has an effective date of July 1, 2018.

---

[20] Florida Department of Corrections, Annual Report for Fiscal Year 2015-2016, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last accessed November 3, 2017). For instance, see information regarding Calhoun Correctional Institution at http://www.dc.state.fl.us/facilities/region1/105.html (last accessed November 6, 2017).

[21] Section 39.806(1)(d), F.S., outlines the circumstances in which the court may terminate the parental rights of an incarcerated parent. Among such considerations are the nature of the offense committed by an incarcerated parent, the length of the parent's expected incarceration, and the nature of the relationship between the incarcerated parent and the child.

B. SECTION DIRECTORY:

Section 1: Creates s. 39.6021, F.S., relating to case plan development involving an incarcerated parent.

Section 2: Provides for an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The DCF and the Department of Corrections may experience an indeterminate workload increase due to the requirements for DCF to coordinate with correctional facilities, amend case plans as individuals become incarcerated or are released from incarceration. Current departmental resources are sufficient to absorb any additional workload.

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:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to incarcerated parents; creating s. 39.6021, F.S.; requiring the Department of Children and Families to obtain specified information from a facility where a parent is incarcerated under certain circumstances; providing an exception; requiring that a parent who is incarcerated be included in case planning and provided with a copy of the case plan; providing requirements for case plans; specifying that the incarcerated parent is responsible for complying with facility procedures and policies to access services or maintain contact with his or her children as provided in the case plan; requiring the parties to the case plan to move to amend the case plan if a parent becomes incarcerated after a case plan has been developed and the parent's incarceration has an impact on permanency for the child; requiring that the case plan include certain information if the incarcerated parent is released before it expires; requiring the department to include certain information in the case plan if the incarcerated parent does not participate in its preparation; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 39.6021, Florida Statutes, is created to read:

39.6021 Case planning when parents are incarcerated or become incarcerated.—

(1) In a case in which the parent is incarcerated, the department shall obtain information from the facility where the parent is incarcerated to determine how the parent can participate in the preparation and completion of the case plan and receive the services that are available to the parent at the facility. This subsection does not apply if the department has determined that a case plan for reunification with the incarcerated parent will not be offered.

(2) A parent who is incarcerated must be included in case planning and must be provided a copy of any case plan that is developed.

(3) A case plan for a parent who is incarcerated must comply with ss. 39.6011 and 39.6012 to the extent possible, and must give consideration to the regulations of the facility where the parent is incarcerated and to services available at the facility. The department shall attach a list of services available at the facility to the case plan. If the facility does not have a list of available services, the department must note the unavailability of the list in the case plan.

(4) The incarcerated parent is responsible for complying

with the facility's procedures and policies to access services or maintain contact with his or her children as provided in the case plan.

(5) If a parent becomes incarcerated after a case plan has been developed, the parties to the case plan must move to amend the case plan if the parent's incarceration has an impact on permanency for the child, including, but not limited to:

(a) Modification of provisions regarding visitation and contact with the child;

(b) Identification of services within the facility; or

(c) Changing the permanency goal or establishing a concurrent case plan goal.

(6) If an incarcerated parent is released before the case plan expires, the case plan must include tasks that must be completed by the parent and services that must be accessed by the parent upon the parent's release.

(7) If the parent does not participate in preparation of the case plan, the department must include in the case plan a full explanation of the circumstances surrounding his or her nonparticipation and must state the nature of the department's efforts to secure the incarcerated parent's participation.

(8) This section does not prohibit the department or the court from revising a permanency goal after a parent becomes incarcerated or from determining that a case plan with a goal of reunification may not be offered to a parent. This section may

not be interpreted as creating additional obligations for a facility which do not exist in the statutes or regulations governing that facility.

Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 517 State Employees' Prescription Drug Program
SPONSOR(S): Magar
TIED BILLS: **IDEN./SIM. BILLS:** SB 954

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Committee	19 Y, 0 N	Grabowski	Calamas
2) Appropriations Committee		Delaney 2nD	Leznoff

SUMMARY ANALYSIS

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for all state employees including all state agencies, state universities, the court system, and the Legislature, and includes health, life, dental, vision, disability, and other supplemental insurance benefits. The SGI program typically makes benefits changes on a plan year basis, January 1 through December 31. Benefit changes are subject to approval by the Legislature.

As part of the SGI program, DMS is required to maintain the State Employees' Prescription Drug Program (Prescription Drug Plan). DMS contracts with CVS/Caremark, a pharmacy benefits manager (PBM), to administer the Prescription Drug Plan.

Currently, the PBM does not employ prescription drug formulary management or any other management protocols. The Prescription Drug Plan has an open formulary, which covers all federal legend drugs for covered medical conditions, and uses very limited utilization review for traditional or specialty prescription drugs.

HB 517 directs DMS to implement measures to manage the prescription drug formulary in the Prescription Drug Plan. The PBM must add drugs to the formulary and remove drugs from the formulary, as necessary, to implement cost-saving measures. However, any formulary management technique cannot restrict access to the most clinically appropriate, clinically effective, and lowest net-cost prescription drugs.

In addition, an excluded drug may be available for inclusion, and thereby covered by the Prescription Drug Plan, if a member's, or her or his dependent's, prescribing practitioner writes clearly on the prescription that the excluded drug is medically necessary.

Based on a January 1, 2019 projected implementation date, the provisions of the bill result in a positive budgetary fiscal impact to the state of $15.3 million in General Revenue and $11.7 million in trust funds in fiscal year 2018-2019.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Group Insurance Program

Overview

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for all state employees including all state agencies, state universities, the court system, and the Legislature, and includes health, life, dental, vision, disability, and other supplemental insurance benefits. The SGI program typically makes benefits changes on a plan year basis, January 1 through December 31. Benefit changes are subject to approval by the Legislature.

The health insurance benefit for active employees has premium rates for single, spouse program[1], or family coverage regardless of plan selection. The state contributed approximately 92% toward the total annual premium for active employees, or $1.87 billion out of total premium of $2.04 billion for active employees during FY 2017-18[2]. Retirees and COBRA participants contributed an additional $239.2 million in premiums, with $168.7 million in other revenue for a total of $2.45 billion in total revenues.[3]

Health Plan Options

The SGI Program provides limited options for employees to choose as their health plan. The preferred provider organization (PPO) plan is the statewide, self-insured health plan administered by Florida Blue, whose current contract covers the 2015 through 2018 plan years. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions. The standard health maintenance organization (HMO) plan is an insurance arrangement in which the state has contracted with multiple statewide and regional HMOs.[4]

Prior to the 2011 plan year, the participating HMOs were fully insured; in other words, the HMOs assumed all financial risk for the covered benefits. During the 2010 session, the Legislature enacted s. 110.12302, F.S., which directed DMS to require costing options for both fully insured and self-insured plan designs as part of the department's solicitation for HMO contracts for the 2012 plan year and beyond. The department included these costing options in its Invitation to Negotiate[5] to HMOs for contracts for plans years beginning January 1, 2012. The department entered into contracts for the 2012 and 2013 plan years with two HMOs with a fully insured plan design and four with a self-insured plan design. New contracts with the HMOs have subsequently been executed for plan years 2018-2020.[6]

---

[1] The Spouse Program provides discounted rates for family coverage when both spouses work for the state.
[2] Florida Legislature, Office of Economic and Demographic Research, Self-Insurance Estimating Conference, *State Employees' Group Health Self-Insurance Trust Fund- Report on the Financial Outlook for Fiscal Years Ending June 30, 2018 through June 30, 2023*, adopted December 13, 2017, page 6, available at http://edr.state.fl.us/Content/conferences/healthinsurance/HealthInsuranceOutlook.pdf
[3] Id.
[4] The HMOs include Aetna, AvMed, Capital Health Plan, Florida Health Care Plans and United Healthcare.
[5] ITN NO.: DMS 10/11-011
[6] Beginning in 2018, Florida Health Care Plans is no longer a participating HMO in the SGI program.

Additionally, the SGI Program offers two high-deductible health plans (HDHPs[7]) with health savings accounts (HSAs)[8]. The Health Investor PPO Plan is the statewide HDHP with an integrated HSA. It is also administered by Florida Blue. The Health Investor HMO Plan is an HDHP with an integrated HSA, for which the state has contracted with multiple state and regional HMOs. Both HDHPs have an individual deductible of $1,350 for individual coverage and $2,700 for family coverage for network providers.[9] The state makes an annual HSA contribution of $500 for single coverage and $1,000 for family coverage. The employee may make additional annual contributions[10] up to $3,400 for single coverage and $6,750 for family coverage. Both the employer and employee contributions are not subject to federal income tax. Unused funds roll over automatically every year. The HSA is owned by the employee and is portable.

The following charts illustrate the benefit design of each of the plan choices.

	HMO Standard	**PPO Standard**	
	Network Only	*In-Network*	*Out-of-Network*
Deductible	None	$250 Single $500 Family	$750 Single $1,500 Family
Primary Care	$20 Copayment	$15 Copayment	40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist	$40 Copayment	$25 Copayment	
Urgent Care	$25 Copayment	$25 Copayment	
Emergency Room	$100 Copayment	$100 Copayment	
Hospital Stay	$250 Copayment	20% after $250 Copayment	40% after $500 copayment plus the amount between the charge and the allowance
Out-of-Pocket Max	$7,350 Single $14,700 Family	$7,350 Single $14,700 Family	NA

[7] High-deductible health plans with linked HSAs are also call consumer-directed health plans (CDHP) because costs of health care are more visible to the enrollee.
[8] 26 USC sec. 223; to qualify as a high-deductible plan, the annual deductible must be at least $1,300 for single plans and $2,600 for family coverage, but annual out-of-pocket expenses cannot exceed $6,550 for individual and $13,100 for family coverage. These amounts are adjusted annually by the IRS.
[9] Department of Management Services, *myFlorida, 2018 Benefits Guide*, available at https://www.mybenefits.myflorida.com/content/download/132894/826709/2018_102417_Benefits_Guide.pdf (last viewed November 21, 2017).
[10] Id., The IRS annually sets the contribution limit, as adjusted by inflation.

	PPO and HMO Health Investor	
	In-Network	*Out-of-Network (PPO Only)*
Deductible	$1,350 Single $2,700 Family	$2,500 Single $5,000 Family
Primary Care	After meeting deductible, 20% of network allowed amount	After meeting the deductible, 40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist		
Urgent Care		After meeting the deductible, 20% of the out-of-network allowance
Emergency Room		
Hospital Stay		After meeting the deductible, 40% after $1,000 copayment plus the amount between the charge and the allowance
Out-of-Pocket Max	HMO: $3,000 Single $6,000 Family PPO: $4,350 Single $8,700 Family	NA

State Employees' Prescription Drug Program

As part of the SGI program, DMS is required to maintain the State Employees' Prescription Drug Program (Prescription Drug Plan).[11] DMS contracts with CVS/Caremark, a pharmacy benefits manager (PBM), to administer the Prescription Drug Plan.[12]

The Prescription Drug Plan has three cost sharing categories for members: generic drugs, preferred brand name drugs - which are those brand name drugs on the preferred drug list[13], and non-preferred brand name drugs - which are those brand name drugs not on the preferred drug list. Contractually, the PBM updates the preferred drug list quarterly as brand name drugs enter the market and as the PBM negotiates pricing, including rebates with manufacturers.

Generic drugs are the least expensive and have the lowest member cost share, preferred brand name drugs have the middle cost share, and non-preferred brand name drugs are the most expensive and

[11] S. 110.12315, F.S.
[12] Department of Management Services, *myFlorida, Prescription Drug Plan*, available at http://mybenefits.myflorida.com/health/health_insurance_plans/prescription_drug_plan (last viewed November 21, 2017).
[13] The Prescription Drug Plan Preferred List for October 2017 is available at www.caremark.com/portal/asset/sof_preferred_dl.pdf (last viewed November 21, 2017).

have the highest member cost share. As a general practice, prescriptions written for a brand name drug, preferred or non-preferred, will be substituted with a generic drug when available. If the prescribing health care provider states clearly on the prescription that the brand name drug is medically necessary over the generic equivalent, the member will pay only the brand name preferred or non-preferred cost share. If the member requests the brand name drug over the generic equivalent, without the provider's medically necessary request, then the member will pay the brand name preferred or non-preferred cost share, plus the difference between the actual cost of the generic drug and the brand name drug.

Prescription drug costs differ depending on which health plan a member enrolls in and whether the prescription drug is a generic, a preferred brand-name or a non-preferred brand-name. A member can get up to a 30-day supply at retail pharmacy in the Prescription Drug Plan network and up to a 90-day supply at a mail order pharmacy or at a participating 90-day retail pharmacy. The use of mail order pharmacy is optional, but PPO members must utilize the 90-day mail or retail option after three 30-day fills at a retail pharmacy for any maintenance medications. In addition, certain specialty medications are only available via delivery to a member's home or a participating pharmacy.

The following chart shows the cost savings of using generics, mail order or a participating 90-day retail pharmacy for maintenance medications.[14]

	Standard PPO and Standard HMOs		**High-Deductible HMO and PPO**
	Retail (30-day)	Mail Order and Retail (90-day)	Retail (30-day); Mail Order and Retail (90-Day)
Generic	$7	$14	30%
Preferred Brand Name	$30	$60	30%
Non-preferred Brand Name	$50	$100	50%

The Prescription Drug Plan also covers compound medications. Compound medications combine, mix, or alter the ingredients of one or more drugs or products to create another drug or product. The Prescription Drug Plan only covers the federal legend drug[15] ingredient of a compounded medication when all of the following criteria are satisfied:

- The compounded medication is not used in place of a commercially available federal legend drug in the same strength and formulation, unless medically necessary;
- The compounded medication is specifically produced for use by a covered person to treat a covered condition; and
- The compounded medication, including all sterile compounded products, is made in compliance with Chapter 465, F.S.[16]

Currently, the PBM employs only limited prescription drug formulary management in the form of reviews designed to ensure that drugs are being prescribed for appropriate medical conditions. There is, however, no use of utilization management protocols to incentivize the use of some drugs over others. The Prescription Drug Plan has an open formulary, which covers all federal legend drugs for

[14] Maintenance drugs are prescriptions commonly used to treat conditions that are considered chronic or long-term. These conditions usually require regular, on-going use of the drugs. Examples of maintenance drugs are those used to treat high blood pressure, heart disease, asthma and diabetes.

[15] Legend drug means drugs that are approved by the U.S. Food and Drug Administration (FDA) and that are required by federal or state law to be dispensed to the public only on prescription of a licensed physician or other licensed provider. https://definitions.uslegal.com/l/legend-drug/ (last accessed November 22, 2017).

[16] Department of Management Services, *myBenefits, Frequently Asked Questions-Prescription Drug Plan*, available at http://mybenefits.myflorida.com/health/forms_and_resources/faqs/frequently_asked_questions_prescription_drug_plan%20 (last viewed November 21, 2017).

covered medical conditions. However, the PBM each year announces in July the therapeutic classes of drugs that will be impacted by exclusion for the next plan year. For plan year 2017, the PBM excluded 131 drugs from the formulary.[17]

Effect of Proposed Changes

HB 517 directs DMS to implement measures to manage the prescription drug formulary in the Prescription Drug Plan. Prescription drugs listed in the formulary must be subject to inclusion and exclusion, meaning the PBM must add drugs to the formulary and remove drugs from the formulary, at specified intervals, to implement cost-saving measures. However, any formulary management technique may not restrict access to the most clinically appropriate, clinically effective, and lowest net-cost prescription drugs.

The bill provides an exception to formulary exclusion of any prescription drug. An excluded drug may be available for inclusion, and thereby covered by the Prescription Drug Plan, if a member's, or her or his dependent's, prescribing physician, advanced registered nurse practitioner, or physician assistant writes clearly on the prescription that the excluded drug is medically necessary. The provision ensures a patient has access to a prescription drug that is effective in treating her or his disease or medical condition even if that drug is excluded from the formulary by the PBM.

In addition to the annual update to the formulary, the bill will allow the PBM to make changes quarterly to the formulary. Such changes could include:

- Identifying prescription drugs on the formulary that have unwarranted and substantial price increases. After complete review and ensuring adequate covered products remain on the formulary, the PBM could exclude such drugs.
- Adding prescription drugs to the formulary which are new to the market. According to the PBM, if the drug is not a breakthrough drug[18], it typically takes six months for clinical review and a decision to be made on formulary placement. If the new drug is a breakthrough drug, it typically takes thirty days for the same clinical review and decision-making process to be completed.

Formulary management techniques will give DMS, through its contracted PBM, greater influence over spending under the Prescription Drug Plan, while ensuring that members and their dependents have access to the most effective prescription drug therapies.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 110.12315, F.S., relating to the prescription drug program.
Section 2: Repeals s. 8, ch. 99-255, Laws of Fla., prohibiting DMS from implementing a prior authorization program or a restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs.
Section 3: Provides an effective date of July 1, 2018.

---

[17] CVSHealth, *Utilization and Spend for 2017 Standard Formulary Exclusions-State of Florida* (on file with Health Innovation Subcommittee staff).

[18] A breakthrough therapy is a drug intended alone or in combination with one or more other drugs to treat a serious or life threatening disease or condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. U.S. Department of Health and Human Services, Food and Drug Administration, *Fact Sheet: Breakthrough Therapies*, available at https://www.fda.gov/RegulatoryInformation/LawsEnforcedbyFDA/SignificantAmendmentstotheFDCAct/FDASIA/ucm329491.htm (last viewed November 21, 2017).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DMS is expected to realize annual savings to the state program of approximately $54.1 million (see Fiscal Comments) by employing various formulary management techniques. The July 1, 2018, effective date would allow DSGI to implement the formulary management protocols on January 1, 2019, which would generate a projected savings of $15.3 million in General Revenue Funds and $11.7 million in trust funds during the second half of FY 2018-19.[19]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Based on implementing CVS/Caremark's standard prescription drug formulary with exclusions and prior authorization, the projected impacts to members and the number of prescriptions[20] are:

Non-Specialty Prescriptions	84,043
Specialty Prescriptions	513
Total (4,450,316 prescriptions in FY2016-2017)	84,556 or 1.9%
Non-Specialty Use - Members	30,917
Specialty Use - Members	130
Total (361,012)	31,047 or 8.6%

The projected savings[21], or cost avoidance to the Prescription Drug Plan, from implementing formulary management techniques are:

- Total Gross Savings — $55.6M or 7.1% of gross costs
- Net Plan Savings — $54.1M or 7.4% of net costs
- Net Member Savings — $ 1.5M or 3.2%[22] of member costs

[19] E-mail correspondence from DMS, dated December 1, 2017. On file with staff of the Committee on Health and Human Services.
[20] Department of Management Services, *2018 Agency Legislative Bill Analysis for HB 517*, November 27, 2017, pgs. 5-6 (on file with Health Innovation Subcommittee staff). Member impact for subsequent years is expected to be approximately 1-2%.
[21] Projected cost avoidance fluctuates quarterly based on utilization, inflation and formulary changes.
[22] Supra, FN 19.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to impact county or municipal government.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DMS has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to state employees' prescription drug program; amending s. 110.12315, F.S.; requiring the Department of Management Services to implement formulary management cost-saving measures; providing requirements for such measures; amending ch. 99-255, Laws of Florida; removing a provision that prohibits the department from implementing a restricted prescription drug formulary or prior authorization program in the state employees' prescription drug program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (9) is added to section 110.12315, Florida Statutes, to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(9) The department shall implement formulary management cost-saving measures. Such measures must require prescription drugs to be subject to formulary inclusion or exclusion and may

not restrict access to the most clinically appropriate, clinically effective, and lowest net-cost prescription drugs. However, excluded drugs may be available for inclusion if a physician, advanced registered nurse practitioner, or physician assistant prescribing a pharmaceutical clearly states on the prescription that the excluded drug is medically necessary.

Section 2. Section 8 of Chapter 99-255, Laws of Florida, is amended to read:

~~Section 8. The Department of Management Services shall not implement a prior authorization program or a restricted formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond the provisions of paragraph (b) related specifically to generic equivalents for prescriptions and the provisions in paragraph (d) related specifically to starter dose programs or the dispensing of long-term maintenance medications. The prior authorization program expanded pursuant to section 8 of the 1998-1999 General Appropriations Act is hereby terminated. If this section conflicts with any General Appropriations Act or any act implementing a General Appropriations Act, the Legislature intends that the provisions of this section shall prevail. This section shall take effect upon becoming law.~~

Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 7001 PCB WMC 18-01 Supermajority Vote for State Taxes or Fees
SPONSOR(S): Ways & Means Committee, Leek
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	15 Y, 6 N	Aldridge	Langston
1) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

This joint resolution proposes an amendment to the state Constitution that would provide that no state tax or fee may be imposed, authorized, or raised by the legislature, or authorized by the legislature to be raised except through legislation approved by two-thirds of the membership of each house of the legislature.

The joint resolution requires that any proposed state tax or fee imposition, authorization or increase must be contained in a separate bill that contains no other subject. The joint resolution also specifies that the proposed amendment does not authorize the imposition of any state tax or fee otherwise prohibited by the state Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

The amendment proposed in the joint resolution will take effect on January 8, 2019, if approved by sixty percent of the voters during the 2018 general election or earlier special election. The joint resolution is not subject to the governor's veto powers.

The Revenue Estimating Conference adopted a zero impact for the joint resolution on November 13, 2017. This is a joint resolution proposing a constitutional amendment to be submitted to the voters. Whether the constitutional amendment passes or not, the impact is zero. If it passes, the amendment creates a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. It does not directly impact current baseline revenue forecasts because they are based on current law and current administration and do not contain assumptions regarding future legislative changes. Future positive state and local revenue impacts from proposed legislation that could pass under current legislative authority may not occur if the amendment is approved by voters.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Under current law the Legislature has broad power to enact and modify the state's tax policy through legislation, subject to state and federal constitutional constraints. Such legislation is subject to the normal constitutional requirements for the enactment of general law. Passage of a bill requires a majority vote in each house of the Legislature,[1] and presentation to the Governor for approval.[2] The bill becomes a law if the Governor approves it, or fails to veto it within the timeframes prescribed in the state Constitution.[3] Vetoes can be overcome by a two-thirds vote of each house of the Legislature.[4]

Corporate Income Tax

Florida's constitution requires three-fifths approval of the membership of each house of the legislature for increases in the corporate income tax rate above 5%.[5]

Other Types of Bills Requiring a Supermajority Vote

There are several other types of bills that require something greater than a majority vote to become law. These include:

- Bills that would authorize the conveyance of property taken by eminent domain to a natural person or private entity require a three-fifths vote of each house of the Legislature.[6]
- Bills that would appropriate nonrecurring general revenue funds for recurring purposes cannot exceed three percent of the total general revenue funds estimated to be available unless approved by a three-fifths vote of the membership of each house of the Legislature.[7]
- Bills that would repeal court rules of practice or procedure require a two-thirds vote of the membership of each house of the Legislature.[8]
- Bills that would increase or decrease judicial offices by a number different than that certified by the Supreme Court to the Legislature.[9]
- Bills that would create special laws or general laws of local application that are prohibited by general law (but not by the constitution), or bills that would amend or repeal such a prohibition require a three-fifths vote of the membership of each house of the Legislature.[10]

---

[1] Fla. Const. Art. III, s. 7.
[2] Fla. Const. Art. III, s. 8(a).
[3] The Governor has seven days after presentation to act on a bill if the seven day period occurs during a legislative session, or fifteen days otherwise. Fla. Const. Art. III, s. 8(a).
[4] Fla. Const. Art. III, s. 8(c).
[5] Fla. Const. Art. VII, s. 5(a).
[6] Fla. Const. Art. X, s. 6(c).
[7] Fla. Const. Art. III, s. 19(3).
[8] Fla. Const. Art. V, s. 2(a).
[9] Fla. Const. Art. V, s. 9.
[10] Fla. Const. Art. III, s. 11(a)(21). The following for prohibited subject matters have been added under the authority of this constitutional provision: s. 112.67, F.S. (Pertaining to protection of public employee retirement benefits); s. 121.191, F.S. (Pertaining to state-administered or supported retirement systems); s. 145.16, F.S. (Pertaining to compensation of designated county officials); s. 189.031(2), F.S. (Pertaining to independent special districts); s. 190.049, F.S. (Pertaining to the creation of independent special districts having the powers enumerated in two or more of the paragraphs of s. 190.012, F.S.); s. 215.845, F.S. (Pertaining to the maximum rate of interest on bonds); s. 298.76(1), F.S. (Pertaining to the grant of authority, power, rights, or privileges to a water control district formed pursuant to ch. 298, F.S.); s. 373.503(2)(b), F.S. (Pertaining to allocation of millage for water management

- Bills that would create certain local mandates that would require counties or municipalities to expend funds[11], reduce their authority to raise revenues[12], or reduce the percentage of a state shared tax[13], require a two-thirds voter of the membership of each house of the Legislature.
- Bills that would create or recreate a trust fund require a vote of three-fifths of the membership of each house of the Legislature.[14]
- Bills that would raise revenue above certain constitutionally prescribed caps require a two-thirds vote of the membership of each house of the Legislature.[15]
- Bills that would exempt public access from certain public records or meetings require a two-thirds vote of the membership of each house of the Legislature.[16]
- Joint resolutions proposing an amendment of the state Constitution require a three-fifths vote of the membership of each house of the Legislature.[17]
- Bills creating a special election for voter approval of a constitutional amendment proposed by joint resolution, a report of a revision commission, a constitutional convention or the taxation and budget reform commission, require a three-fourths vote of the membership of each house of the Legislature.[18]

Other States with a Supermajority Vote Requirement for Tax Increases

Currently, 15 states have some type of supermajority vote requirement for tax increases.[19]

State	Year Adopted	Legislative Supermajority Vote Required	Applies To…
Arizona	1992	2/3	All taxes
Arkansas	1934	3/4	All taxes except sales and alcohol
California	1979	2/3	All taxes
Delaware	1980	3/5	All taxes
Florida	1971	3/5	Corporate income tax
Kentucky	2000	3/5	All taxes
Louisiana	1966	2/3	All taxes
Michigan	1994	3/4	State property tax
Mississippi	1970	3/5	All taxes
Missouri	1996	2/3	All taxes
Nevada	1996	2/3	All taxes
Oklahoma	1992	3/4	All taxes
Oregon	1996	3/5	All taxes
South Dakota	1996	2/3	All taxes
Wisconsin	2011	2/3	Sales, income and franchise tax

Constitutional Amendments Approving New State Taxes or Fees

---

purposes); s. 1011.77, F.S. (Pertaining to taxation for school purposes and the Florida Education Finance Program); s. 1013.37(5), F.S. (Pertaining to the "State Uniform Building Code for Public Educational Facilities Construction").

[11] Fla. Const. Art. VII, s. 18(a)

[12] Fla. Const. Art. VII, s. 18(b)

[13] Fla. Const. Art. VII, s. 18(c)

[14] Fla. Const. Art. III, s. 19(f)(1).

[15] Fla. Const. Art. VII, s. (1)(e).

[16] Fla. Const. Art. I, s. 24(c).

[17] Fla. Const. Art. XI, s. 1.

[18] Fla. Const. Art. XI, s. 5(a)

[19] See http://www.ncsl.org/research/fiscal-policy/supermajority-vote-requirements-to-pass-the-budget635542510.aspx, last visited 10/31/2017.

No new State tax or fee may be imposed on or after November 8, 1994 by any amendment to the State Constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered.[20] For purposes of this constitutional provision, the phrase "new State tax or fee" means any tax or fee which would produce revenue subject to lump sum or other appropriation by the Legislature, either for the State general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994 including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994.[21]

Effect of Proposed Changes

This joint resolution proposes an amendment to the state Constitution that would provide that no state tax or fee may be imposed, authorized, or raised by the legislature, or authorized by the legislature to be raised except through legislation approved by two-thirds of the membership of each house of the legislature. The joint resolution defines the following terms:

- "Fee" means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

- "Raise" means:
  - To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
  - To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
  - To decrease or eliminate a state tax or fee exemption or credit.

The joint resolution requires that any proposed state tax or fee imposition, authorization or increase must be contained in a separate bill that contains no other subject. The joint resolution also specifies that the proposed amendment does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

The amendment proposed by the joint resolution does not contain an effective date. Therefore, pursuant to Art. XI, Fla. Const., s. 5(e), it shall be effective on the first Tuesday after the first Monday in January following the election, which in 2019 is January 8.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. The Revenue Estimating Conference adopted a zero impact for the joint resolution on November 13, 2017. This is a joint resolution proposing a constitutional amendment to be submitted to the voters. Whether the constitutional amendment passes or not, the impact is zero. If it passes, the amendment creates a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. It does not directly impact current baseline revenue forecasts because they are based on current law and current administration and do not contain assumptions regarding future legislative changes. Future positive state and local revenue impacts from proposed legislation that could pass under current legislative authority may not occur if the amendment is approved by voters.

[20] Fla. Const. Art. XI, s. 7.
[21] Id.

3. Expenditures:

   Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

   However, based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be approximately $43,732. This would likely be paid from non-recurring General Revenue funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. The Revenue Estimating Conference adopted a zero impact for the joint resolution on November 13, 2017. This is a joint resolution proposing a constitutional amendment to be submitted to the voters. Whether the constitutional amendment passes or not, the impact is zero. If it passes, the amendment creates a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. It does not directly impact current baseline revenue forecasts because they are based on current law and current administration and do not contain assumptions regarding future legislative changes. Future positive state and local revenue impacts from proposed legislation that could pass under current legislative authority may not occur if the amendment is approved by voters.

3. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent the new constraint on the Legislature's ability to impose or raise state taxes or fees prevents such enactments, the private sector would avoid such state tax or fee impositions or increases.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable to joint resolutions.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 7, 2017, the Ways & Means committee adopted a strike-all amendment and reported the bill favorably. The amendment clarifies that the supermajority vote requirement in the proposed constitutional amendment applies to legislation where the legislature authorizes the imposition or raising of a state tax or fee. The amendment also clarifies that the supermajority vote requirement in the proposed constitutional amendment does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district. Finally, the amendment added a lengthier, more detailed supplemental ballot summary should the 75 words or less summary be rejected by the Florida Supreme Court.

The analysis is drafted to reflect the bill as amended.

House Joint Resolution

A joint resolution proposing the creation of section 19 of Article VII of the State Constitution to provide that no state tax or fee may be imposed, authorized, or raised by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval; providing for applicability; providing definitions; requiring any tax or fee imposed or raised under this section to be contained in a separate bill that contains no other subject.

Be It Resolved by the Legislature of the State of Florida:

That the following creation of Section 19 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 19. Supermajority vote required to impose, authorize, or raise state taxes or fees.—

(a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW STATE TAX OR FEE. No new state tax or fee may be imposed or

authorized by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) SUPERMAJORITY VOTE REQUIRED TO RAISE STATE TAXES OR FEES. No state tax or fee may be raised by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(c) APPLICABILITY. This section does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

(d) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Fee" means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

(2) "Raise" means:

a. To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee exemption

or credit.

(e) SINGLE-SUBJECT. A state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 19

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE STATE TAXES OR FEES.—Prohibits the legislature from imposing, authorizing, or raising a state tax or fee except through legislation approved by a two-thirds vote of each house of the legislature in a bill containing no other subject. This proposal does not authorize a state tax or fee otherwise prohibited by the Constitution and does not apply to fees or taxes imposed or authorized to be imposed by a county, municipality, school board, or special district.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statement defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 19

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE

STATE TAXES OR FEES.—Proposing the following amendment to the State Constitution:

ARTICLE VII

FINANCE AND TAXATION

SECTION 19. Supermajority vote required to impose, authorize, or raise state taxes or fees.-

(a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW STATE TAX OR FEE. No new state tax or fee may be imposed or authorized by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) SUPERMAJORITY VOTE REQUIRED TO RAISE STATE TAXES OR FEES. No state tax or fee may be raised by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(c) APPLICABILITY. This section does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

(d) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Fee" means any charge or payment required by law,

including any fee for service, fee or cost for licenses, and charge for service.

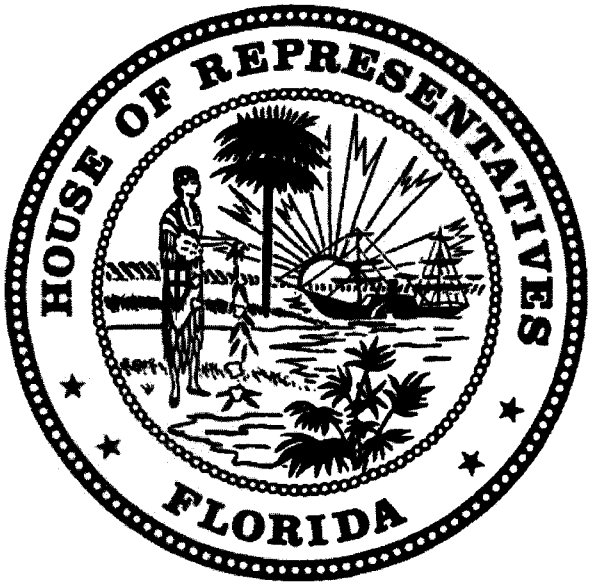
(2) "Raise" means:

a. To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee exemption or credit.

(e) SINGLE-SUBJECT. A state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.



Appropriations Committee

Tuesday, January 9, 2018
4:30 PM – 6:30 PM
212 Knott Building

Addendum A

Richard Corcoran
Speaker

Carlos Trujillo
Chair

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Moskowitz offered the following:

Amendment (with ballot and title amendments)

Remove lines 23-53 and insert:

authorize, raise, or lower state taxes or fees.—

(a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW STATE TAX OR FEE. No new state tax or fee may be imposed or authorized by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) SUPERMAJORITY VOTE REQUIRED TO RAISE OR LOWER STATE TAXES OR FEES. No state tax or fee may be raised or lowered by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and

presented to the Governor for approval pursuant to Article III, Section 8.

(c) APPLICABILITY. This section does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

(d) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Fee" means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

(2) "Lower" means:

a. To lower or authorize the lowering in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To lower or authorize the lowering in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee or credit.

(3) "Raise" means:

a. To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee exemption or credit.

(e) SINGLE-SUBJECT. A state tax or fee imposed, authorized, raised, or lowered under this section must be contained in a

---

B A L L O T A M E N D M E N T

Remove lines 60-111 and insert:

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, RAISE, OR LOWER STATE TAXES OR FEES.—Prohibits the legislature from imposing, authorizing, raising, or lowering a state tax or fee except through legislation approved by a two-thirds vote of each house of the legislature in a bill containing no other subject. This proposal does not authorize a state tax or fee otherwise prohibited by the Constitution and does not apply to fees or taxes imposed or authorized to be imposed by a county, municipality, school board, or special district.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statement defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 19

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, RAISE, OR LOWER STATE TAXES OR FEES.—Proposing the following amendment to the State Constitution:

ARTICLE VII

FINANCE AND TAXATION

SECTION 19. Supermajority vote required to impose, authorize, raise, or lower state taxes or fees.—

(a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW STATE TAX OR FEE. No new state tax or fee may be imposed or authorized by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) SUPERMAJORITY VOTE REQUIRED TO RAISE OR LOWER STATE TAXES OR FEES. No state tax or fee may be raised or lowered by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(c) APPLICABILITY. This section does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

(d) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Fee" means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

(2) "Lower" means:

a. To lower or authorize the lowering in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To lower or authorize the lowering in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee or credit.

(3) "Raise" means:

a. To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;

b. To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

c. To decrease or eliminate a state tax or fee exemption or credit.

(e) SINGLE-SUBJECT. A state tax or fee imposed, authorized, raised, or lowered under this section must be contained in a

---

T I T L E A M E N D M E N T

Remove lines 5-10 and insert:
raised, or lowered by the legislature except through legislation approved by two-thirds of the membership of each house of the

legislature and presented to the Governor for approval; providing for applicability; providing definitions; requiring any tax or fee imposed, authorized, raised, or lowered under this section to be contained