

1989

Session Law 89-131

Florida Senate & House of Representatives

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H 1003 GENERAL BILL by Easterly (Identical S 1056, Compare H 378, S 897)

State Comprehensive Health Assoc.: provides immunity from liability for specified persons under certain circumstances; provides exception; directs association to collect assessments to provide for operating losses; eliminates organizational assessments; authorizes association to collect certain other assessments; revises language re participation of insurers; revises language re assessments for premiums earned. Amends 627.6488, 6492, 6494. Effective Date: 06/26/89.

03/17/89 HOUSE Prefiled
03/24/89 HOUSE Referred to Insurance; Finance & Taxation; Appropriations
04/03/89 HOUSE Subreferred to Subcommittee on Health and Life Insurance
04/04/89 HOUSE Introduced, referred to Insurance; Finance & Taxation; Appropriations -HJ 96; Subreferred to Subcommittee on Health and Life Insurance; On subcommittee agenda—Insurance, 04/05/89, 10:15 am, 16-HOB
04/05/89 HOUSE Subcommittee Recommendation: Favorable; On Committee agenda—Insurance, 04/05/89, 11:15 am, 317-C—For ratification to subcommittee
04/28/89 HOUSE On Committee agenda—Insurance, 05/02/89, 4:15 pm, 317-C
05/02/89 HOUSE Preliminary Committee Action by Insurance: Favorable
05/17/89 HOUSE Comm. Report: Favorable by Insurance -HJ 522; Now in Finance & Taxation -HJ 522
05/22/89 HOUSE Withdrawn from Finance & Taxation -HJ 556; Now in Appropriations
05/24/89 HOUSE Withdrawn from Appropriations -HJ 626; Placed on Calendar
05/26/89 HOUSE Placed on Consent Calendar; Read second time; Read third time; Passed; YEAS 111 NAYS 0 -HJ 690
05/26/89 SENATE In Messages
05/30/89 SENATE Received, referred to Insurance; Finance, Taxation and Claims; Appropriations -SJ 563
06/01/89 SENATE Withdrawn from Insurance; Finance, Taxation and Claims; Appropriations; Substituted for SB 1056; Passed; YEAS 37 NAYS 0 -SJ 751
06/01/89 Ordered enrolled
06/13/89 Signed by Officers and presented to Governor
06/26/89 Approved by Governor; Chapter No. 89-131

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: H1003-f.inj
DATE: June 29, 1989

**HOUSE OF REPRESENTATIVES
INSURANCE COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1003

RELATING TO: State Comprehensive Health Care

SPONSOR(S): Representative Easterly

EFFECTIVE DATE: Upon becoming a law

DATE BECAME LAW: June 26, 1989

CHAPTER #: 89-131, Laws of Florida

COMPANION BILL(S): SB 1056; Compare HB 378, HB 766, SB 897

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

This bill clarifies the present law regarding apparent conflicts and ambiguities in accounting terminology and assessment provisions.

A. PRESENT SITUATION:

In the current law there is an apparent conflict in the accounting methodology for determining the deficits in the funding of the State Comprehensive Health Association (association) and the amounts of assessments collected from insurers. Language in the present statute requires the association to levy assessments on a normal accrual accounting basis, while another portion of the same subsection suggests that assessments be levied on a cash basis. In practice, the association has construed the law to require accounting on an accrual basis so that deficits will be calculated to include liabilities which have been incurred but not yet paid during the year.

The current law also provides for organizational assessments. This provision is obsolete.

Health insurance accounting generally requires insurers to calculate and report the portion of the premium either earned or collected in a particular year. The current statute does not specify which of these accounting procedures is to be used.

The present statute contains various caps on assessments that can apply to insurers in different situations. Two of these caps provide that insurers are not required to pay more than their prior year's tax or .01 percent of their premium on the insurance to which "this part" applies. Read literally, "this part" is the individual health insurance portion of the statute, and it could be read to exclude group health insurance products from the assessments.

The current law requires that assessment caps apply in a particular calendar year and that the annual assessment is capped by taxes paid in the previous year.

Presently, there is no specific grant of immunity in the law for persons acting for the association.

B. EFFECT OF PROPOSED CHANGES:

This bill codifies interpretations of existing statutes which the association is currently applying. It also provides limited immunity for certain persons associated with the association

C. SECTION-BY-SECTION ANALYSIS:

Section 1 creates s. 627.6488(2)(e) and provides immunity from liability for member insurers and their agents or employees, agents or employees of the association, members of the board of directors and departmental representatives for the performance of their duties under this act.

Section 1 also amends s. 627.6488(4)(d) and corrects the ambiguity over alternative accounting methodologies in the current law. It requires accounting on an accrual basis. By this method, deficits will be calculated to include not only paid claims and expenses, but also liabilities which are incurred during a year. According to the association, this accounting method is regarded as being more accurate and equitable in terms of allocating losses to the proper year, and in turn prorating them among insurers in proportion to their respective premiums for that year.

This section also deletes the references to the organizational assessments since they no longer apply.

Section 1 also amends s. 627.6488(5)(c) and clarifies the language on interim assessments against insurers. It allows assessments for claims expenses and administrative expenses paid or estimated to be paid in the operation of the plan for a calendar year prior to the association's anticipated receipt of annual assessments for that calendar year. These interim assessments are credited against the insurers annual assessments.

Section 2 amends s. 627.6492(1) to specify that for the purposes of determining assessments, insurers must calculate their operating losses by using earned premiums in the state during the calendar year preceding that for which the assessment is levied.

Section 3 amends s. 627.6494(3) and clarifies the requirement that the assessment base applies to both individual and group health insurance products. It also amends s. 627.6494(4) to clarify that caps on assessments apply to all assessments for a particular year, irrespective of when they are actually levied.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

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:

This bill clarifies when assessments are to be levied, what base the assessments are to be figured on, and what year's taxes the assessments are to be based. It also adds an indemnification clause for the members and board of the association.

III. LONG RANGE CONSEQUENCES:

This bill does not directly relate to and is not inconsistent with the goals and policies specified in the State Comprehensive Plan.

IV. COMMENTS:

The SCHA was created in an effort to make insurance more affordable and available to those consumers who could not purchase insurance in the "normal" market. Any changes to the SCHA which enhance or clarify its purpose and procedures conform to the specified missions of the Insurance Committee to promote the availability of affordable insurance.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Sharon N. Jacobs
Sharon N. Jacobs

Staff Director:

John Guthrie
John Guthrie

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

REVISED: _____

BILL NO. SB 1056

DATE: April 27, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Andrews</u> <i>KA</i>	<u>Fort</u> <i>PS</i>	1. <u>INS</u>	<u>Favorable</u>
2. _____	_____	2. <u>FTC</u>	_____
3. _____	_____	3. <u>AP</u>	_____
4. _____	_____	4. _____	_____

SUBJECT:

State Comprehensive Health Association

BILL NO. AND SPONSOR:

SB 1056 by Senator Grant

I. SUMMARY:

A. Present Situation:

The State Comprehensive Health Association was created in 1982 by s. 627.6488, F.S., and is a non-profit entity whose members include all health insurers doing business in the state. The association must adopt a comprehensive health insurance plan which will provide health insurance to citizens of the state who are "uninsurable," that is, who have requested coverage and were rejected by at least two insurers. If necessary, each insurer will be annually assessed a portion of the operating losses of the plan. The purpose of the plan is to provide coverage to those who would otherwise be unable to obtain insurance.

In the current statutes, there is an apparent conflict in the accounting methodology for determining deficits in the association's funding, and the assessment amount collected from insurers. Some portions of the statutes use accrual accounting terminology, while others use a cash basis method. Although health insurer accounting generally requires insurers to calculate and report the portion of a premium either earned or collected in a particular year, current statutory language does not specify whether the cash basis or accrual method should be used to make such a determination. In practice, the association in concurrence with the Department of Insurance has construed the act to require accounting on an accrual basis so that deficits will be calculated to include liabilities which have been incurred but not yet paid during the year.

The plan also provides for organizational assessments in section 627.6488(4)(d), F.S. This provision is obsolete, as the association has progressed beyond the organizational phase. The plan contains several assessment caps which can apply to insurers in various circumstances. Section 627.6494, F.S., provides that insurers are not required to pay an amount greater than the amount they paid in the previous year as premium tax and corporate income tax or .01 percent of the total written premiums, on the business to which "this part" applies. Read literally, "this part" is the individual health insurance part of the Insurance Code, and could be interpreted to exclude group health insurance products from the plan's assessment.

Presently, there is no specific grant of immunity for persons acting for the association.

B. Effect of Proposed Changes:

This bill codifies interpretations of existing law which the association is currently applying, with the concurrence of the department, and provides limited immunity for certain persons acting for the association.

For ease of understanding, a section-by-section analysis follows:

Section 1: Section 627.6488, F.S., is amended to provide immunity from liability for member insurers and their agents or employees, agents or employees of the association, members of the association's board of directors, and departmental representatives for the performance of their duties under this act, with the exception of an intentional disregard of a claimant's rights.

The bill further corrects the accounting method ambiguity by requiring accounting to be on an accrual basis. By this method, deficits would be calculated to include not only paid claims and expenses, but also additional liabilities which are incurred during a year. According to the association, this accounting method is regarded as more accurate and equitable in terms of allocating losses to the proper year, and then prorating such losses among insurers in proportion to their respective premiums for that year.

Because organizational assessments are no longer applicable, reference to such assessments are deleted by the bill.

The bill also clarifies language regarding interim assessments levied against insurers to allow assessments for claims expenses and administrative expenses paid or estimated to be paid in the operation of the plan for a calendar year prior to the association's anticipated receipt of annual assessments for that calendar year. These interim assessments are credited against the insurers' annual assessments.

Section 2: Section 627.6492(1), F.S., is amended to provide that for the purposes of determining assessments, insurers must report their earned premiums, rather than collected premiums, in the state during the calendar year preceding that for which the assessment is levied, in the computation specified by this section.

Section 3: Section 627.6494(3), F.S., is amended to clarify that the assessment base applies to both individual and group health insurance products, and that assessment caps apply to all assessments for a particular year's operating losses, regardless of when actually levied. The bill also clarifies that the premiums and taxes upon which the assessment caps are based, are the premiums and taxes of the year preceding the year for which an assessment is made, rather than the year in which the assessment is billed.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The immunity provision could favorably impact the designated persons so protected.

B. Government:

Because this bill codifies interpretations of existing law which the association is already applying, there should be no fiscal impact.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

HB 1003 [SB 1056]

House Bill 1003 (Chapter 89-) codifies interpretations of existing law which the State Comprehensive Health Association is currently applying, with the concurrence of the Department of Insurance, and provides limited immunity for certain persons acting for the association.

Section 1: Section 627.6488, F.S., is amended to provide immunity from liability for member insurers and their agents or employees, agents or employees of the association, members of the association's board of directors, and departmental representatives for the performance of their duties under this act, with the exception of an intentional disregard of a claimant's rights.

The bill further corrects the accounting method ambiguity by requiring accounting to be on an accrual basis. By this method, deficits would be calculated to include not only paid claims and expenses, but also additional liabilities which are incurred during a year. According to the association, this accounting method is regarded as more accurate and equitable in terms of allocating losses to the proper year, and then prorating such losses among insurers in proportion to their respective premiums for that year.

Because organizational assessments are no longer applicable, reference to such assessments are deleted by the bill.

The bill also clarifies language regarding interim assessments levied against insurers to allow assessments for claims expenses and administrative expenses paid or estimated to be paid in the operation of the plan for a calendar year prior to the association's anticipated receipt of annual assessments for that calendar year. These interim

assessments are credited against the insurers' annual assessments.

Section 2: Section 627.6492(1), F.S., is amended to provide that for the purposes of determining assessments, insurers must report their earned premiums, rather than collected premiums, in the state during the calendar year preceding that for which the assessment is levied, in the computation specified by this section.

Section 3: Section 627.6494(3), F.S., is amended to clarify that the assessment base applies to both individual and group health insurance products, and that assessment caps apply to all assessments for a particular year's operating losses, regardless of when actually levied. The bill also clarifies that the premiums and taxes upon which the assessment caps are based, are the premiums and taxes of the year preceding the year for which an assessment is made, rather than the year in which the assessment is billed.