

1989

## Session Law 89-277

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

---

### Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-277" (1989). *Staff Analysis*. 1070.  
<https://ir.law.fsu.edu/staff-analysis/1070>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact [efarrell@law.fsu.edu](mailto:efarrell@law.fsu.edu).

**S 321 GENERAL BILL/1ST ENG by Grizzle (Compare H 318, H 501, CS/1ST ENG/H 939, S 338, S 680, CS/S 913)**  
**State Employees/Child Care Services**; redefines certain terms re retirees for purposes of state group insurance program; authorizes D.O.A. to negotiate & contract with specialty hospitals subject to legislative approval; provides that certain moneys forfeited by employees under pretax benefits program be deposited into Pretax Benefits Trust Fund; directs D.O.A. to conduct feasibility study to determine child care needs of state employees, etc. Amends Ch. 110. Effective Date: 07/05/89.

02/27/89 SENATE Prefiled  
03/24/89 SENATE Referred to Governmental Operations; Personnel, Retirement and Collective Bargaining; Appropriations  
04/04/89 SENATE Introduced, referred to Governmental Operations; Personnel, Retirement and Collective Bargaining; Appropriations -SJ 34  
04/10/89 SENATE On Committee agenda—Governmental Operations, 04/12/89, 8:30 am, Room-H-(428)  
04/12/89 SENATE Comm. Report: Favorable by Governmental Operations -SJ 124  
04/13/89 SENATE Now in Personnel, Retirement and Collective Bargaining -SJ 124  
04/24/89 SENATE On Committee agenda—Personnel, Retirement and Collective Bargaining, 04/26/89, 2:00 pm, Room-H-(428)  
04/26/89 SENATE Comm. Report: Favorable by Personnel, Retirement and Collective Bargaining -SJ 210  
04/27/89 SENATE Now in Appropriations -SJ 210  
05/03/89 SENATE Extension of time granted Committee Appropriations  
05/16/89 SENATE Withdrawn from Appropriations -SJ 360; Placed on Calendar  
05/25/89 SENATE Placed on Special Order Calendar -SJ 450  
05/28/89 SENATE Placed on Special Order Calendar -SJ 477; Passed; YEAS 37 NAYS 0 -SJ 480; Immediately certified -SJ 480  
05/28/89 HOUSE In Messages  
05/29/89 HOUSE Received, placed on Calendar -HJ 701; Substituted for HB 501 -HJ 762; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 110 NAYS 0 -HJ 765  
05/29/89 SENATE In Messages  
06/01/89 SENATE Was taken up -SJ 780; Concurred; Passed as amended; YEAS 38 NAYS 0 -SJ 783  
06/01/89 Ordered engrossed, then enrolled -SJ 783  
06/20/89 Signed by Officers and presented to Governor  
07/05/89 Approved by Governor; Chapter No. 89-277

B  
I  
L  
L  
  
H  
I  
S  
T  
O  
R  
Y

**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.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Tinney</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Favorable</u>
2. <u>Hanna</u>	<u>Jones</u>	2. <u>PRCB</u>	<u>Favorable</u>
3. _____	_____	3. <u>AP</u>	<u>Withdrawn</u>
4. _____	_____	4. _____	_____

SUBJECT: Child Care Services for State Officers and Employees

BILL NO. AND SPONSOR: SB 321 by Senator Grizzle

I. SUMMARY:

A. Present Situation:

In 1985, the Legislature enacted s. 110.151, F.S., creating the State Officers' and Employees' Pilot Child Care Program to be administered by the Department of Administration (DOA). As scheduled in the creating legislation, the program and the statute were repealed June 30, 1988. Chapter 88-151, L.O.F., readopted s. 110.151, F.S., and statutorily recognized the single pilot child care center that was established pursuant to the pilot program. That center, the Ina S. Thompson Child Care Center, is managed by the Department of Highway Safety and Motor Vehicles in Tallahassee."

The Child Care Revolving Trust Fund was established in DOA, and \$200,000 was appropriated to fund the pilot project. Funds remaining in the trust fund were authorized in ch. 88-151, L.O.F., to be used by the Office of Labor Relations of the Department of Administration in the start-up and operation of additional child care services for state officers and employees.

Additionally, other provisions of ch. 88-151, L.O.F., which are now contained in s. 110.151, F.S., 1988 Supplement, assigned the Office of Labor Relations of the DOA to approve, administer, and coordinate child care services for the children and dependents of state officers and employees. As part of those duties, the Office of Labor Relations was also directed to survey the child care needs of state employees who would occupy newly-constructed and newly-leased, privately-owned buildings. In order to fulfill that requirement, DOA issued a questionnaire to 103,115 state employees throughout Florida late in 1988.

Since the 1988 Legislative Session, DOA has approved a request for proposals issued by the Department of Corrections for the creation of a child care center at the Broward Correctional Institute in Pembroke Pines. Additionally, DOA has cooperated with the Departments of Education, Law Enforcement, and Professional Regulation to plan for child care services in new facilities to be occupied by those agencies.

The Secretary of Administration appointed an interagency task force in August 1988 to assist the department in developing a plan to guide the state in determining the most efficient and cost-effective means for meeting the child care needs of state officers and employees.

B. Effect of Proposed Changes:

Statutory responsibilities specifically assigned to the Office of Labor Relations would be assigned to the Department of

Administration generally. All references specifically to the Office of Labor Relations with respect to child care services would thus be deleted from the statutes.

The task of surveying the child care needs of employees who will occupy newly-constructed or newly-leased buildings would be expanded to assign DOA to conduct a feasibility study to determine the child care needs of state employees.

Any funds remaining in the Child Care Revolving Trust Fund would be authorized to be used by DOA for "assisting in the development of child care services" as opposed to "start up and operation of child care services" as is currently provided in law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

There is approximately \$15,500 remaining in the Child Care Revolving Trust Fund. According to the department, it does not intend to request additional appropriations for the trust fund.

For FY 1989-90, DOA requested three FTE positions and \$165,710 to establish a Child Care Program. Currently, those responsibilities are being carried out by employees in the Office of Labor Relations, one of which is assigned, nearly exclusively, to the child care program.

Additionally, DOA has included a budget request of \$92,170 for the 1989-90 budget cycle to be used by the Department of Professional Regulation (DPR) for preparing a site to serve as a child care center in the new DPR headquarters. These funds were requested through DOA because DPR is operated with trust fund revenues under s. 455.219, F.S., which are restricted to use by DPR in carrying out the functions of the professional and occupational boards.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STORAGE NAME: h0501-f.go  
DATE: July 6, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 501 (enacted as part of SB 321)  
RELATING TO: Child Care for State Employees and Officers  
SPONSOR(S): Representatives Mortham and Rush  
EFFECTIVE DATE: July 1, 1989, or upon becoming law, whichever occurs later  
DATE BECAME LAW: July 5, 1989  
CHAPTER #: 89-277, Laws of Florida  
COMPANION BILL(S): SB 321 (similar)  
OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

\*\*\*\*\*

I. SUMMARY:

A. SHORT SUMMARY:

This bill transfers approval, administration, and coordination of child care programs for state employees and officers from the Office of Labor Relations within the Department of Administration to the Department of Administration. Additionally, the bill allows the department to conduct feasibility studies, rather than continue to survey state employees. Finally, the bill allows the department to purchase toys and furniture for new day care centers.

B. PRESENT SITUATION:

Section 110.151, Florida Statutes, authorizes administration and coordination of child care services for state officers and employees. Under the provisions of this section, day care centers operated by private providers are placed in or near buildings that house state employees. Child care is not subsidized by the state; employees pay for day care services.

The Office of Labor Relations within the Department of Administration is responsible for the approval, administration, and coordination of child care services for state officers and employees. This office establishes procedures for selecting providers of child care services and requirements that providers must meet. Additionally, in April 1989, the office released the results of a survey it conducted of over 100,000 state employees and officers who would occupy any newly constructed, state-owned, or newly leased, privately-owned, office space. The survey

identified the overall level of need, what type of care is most needed (i.e., infant or school age), and the locations where care is most drastically needed. Respondents with children under age 12 said they would enroll approximately 7,500 preschool-aged children if a state-sponsored child care center opened near their work site. The seven counties with the largest number of respondents were Leon, Dade, Hillsborough, Broward, Duval, Orange, and Polk.

Section 2 of Chapter 88-151, Laws of Florida, provides that the unexpended balance of funds in the State Employees Revolving Trust Fund may be used by the Department of Administration to assist in the start up and operation of child care services. Department staff reported that this language precluded their purchasing toys and furniture for a day care center.

A pilot child care program, the Ina S. Thompson Child Care Center, began in March 1986 at the Department of Highway Safety and Motor Vehicles (adjacent to the Kirkman Building) in Tallahassee. Additionally, three day care centers are being established in different parts of the state. Both the Department of Professional Regulation and the Department of Education have included in their legislative budget requests funds for day care centers that will be established near their new offices in Tallahassee. Additionally, the Department of Corrections is trying to establish a day care center at the women's prison in Broward County.

C. EFFECT OF PROPOSED CHANGES:

This bill moves the approval, administration, and coordination of child care services for state officers and employees from the Office of Labor Relations within the Department of Administration to the Department of Administration. This change provides the department with the flexibility to place child care coordination in the same administrative unit that handles employee benefits.

Rather than continuing to survey state employees to determine child care needs, the department will conduct feasibility studies. The feasibility studies will build on data collected in the state-wide survey and focus on agencies and geographical areas with the greatest need for child care.

Finally, s. 2 of Chapter 88-151, Laws of Florida, is amended to allow the department to expend funds to assist in developing day care centers (i.e., purchase toys and furniture).

D. SECTION-BY-SECTION ANALYSIS OF RELEVANT SECTIONS OF SB 321:

Section 8 - Amends ss. (1), (2), (6), and (7) of s. 110.151, Florida Statutes, 1988 Supplement, to transfer the approval, administration, and coordination of child care services from the Office of Labor Relations within the Department of Administration to the Department of Administration. Allows the department to conduct a feasibility study, rather than survey state employees, to determine child care needs.

Section 9 - Amends s. 2 of Chapter 88-151, Laws of Florida, to allow the Department of Administration to use the unexpended balance of funds in the State Employee Revolving Trust Fund for developing child care services.

Section 10 - Provides an effective date of July 1, 1989, or upon becoming a law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

The Department's fiscal note states that, because continuing this program is part of its 1989-91 legislative budget request, this bill has no additional fiscal impact. The Department requested \$165,710 in General Revenue and three positions to continue the program.

2. Recurring or Annualized Continuation Effects:

See 1, above.

3. Long Run Effects Other Than Normal Growth:

See 1, above.

4. Appropriations Consequences:

See 1, above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

Not applicable.

2. Recurring or Annualized Continuation Effects:

Not applicable.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Not applicable, as the state contracts with the private sector to provide child care services.

STORAGE NAME: h0501-f.go

DATE: July 6, 1989

PAGE: 4

2. Direct Private Sector Benefits:

Not applicable.

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

Not applicable.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This bill is relevant to the following portions of the State's Comprehensive Plan:

(21) Governmental Efficiency.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

13. Encourage joint venture solutions to mutual problems between levels of government and private enterprise.

IV. COMMENTS:

This bill is relevant to the House's Issues Conference Policy Statements, specifically:

Human Resource Development

I. Children's Services -- There is an urgent need to focus our resources on raising healthy, educated children so that they will become productive citizens.

A. Other children's issues and responses to those challenges include:

1. the need for day care and other programs to deal with "latch key kids."

This bill is consistent with the Governmental Operations Committee's Mission Statement, specifically: "Initiate ways to achieve better productivity and efficiency by state agencies."



STORAGE NAME: h0501-f.go

DATE: July 6, 1989

PAGE: 5

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Lyn Davis  
Lyn Davis

Staff Director:

Barry Kling  
Barry Kling

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

\*\*AS PASSED BY THE 1989 LEGISLATURE\*\*

STORAGE NAME: h0939s-f.emr  
DATE: June 14, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON EMPLOYEE & MANAGEMENT RELATIONS  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 939 (Part of SB 321)

RELATING TO: Department of Administration

SPONSOR(S): Committee on Employee & Management Relations and  
Representatives Campbell and Arnall

EFFECTIVE DATE: July 1, 1989, or upon becoming law, whichever occurs later

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-277, Laws of Florida

COMPANION BILL(S): Identical C/S for SB 913

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

\*\*\*\*\*

I. SUMMARY:

Reenacts certain portions of C/S for House 836 (88-126 Laws of Florida) which was recently ruled unconstitutional due to violation of the single subject rule. Revises the State Employee Health Insurance Program Law in terms of redefining the term "retired state officer or employee", provides legislative intent relative to compliance with Section 89 of the Internal Revenue Code, and authorizes the Department of Administration to conduct an actuarial study pertaining to mental health services. Deletes obsolete language regarding reinstatement appointments with respect to state employment and provides the Department of Administration with the statutory authority to promulgate rules establishing a code of ethics for Career Service employees and for officers and employees in the Senior Management and Selected Exempt Services.

A. PRESENT SITUATION:

Section 1. The 1988 Legislature enacted Committee Substitute for House Bill 836 (Chapter 88-126, Law of Florida) which amended s. 110.123, F.S., the State Group Health Insurance Program law, as well as a portion of Chapter 641, F.S., the Health Maintenance Organization law. The provisions of the legislation were recently declared unconstitutional on the ground that it violated the single subject limitation of Article III, Section 6 of the Florida Constitution. Therefore, the 1988 amendments to the State Group Health Insurance law, that have been incorporated into s. 110.123, F.S., 1988 Supplement, need to be reenacted in order to resolve the constitutional issue.

Section 110.123(2)(f) F.S., defines "retired state officer or employee" or "retiree" as any state officer or state employee who retires under a state retirement system or is placed on disability retirement, and who was insured under the state group insurance program at the time of retirement, and who will continue to receive a monthly state warrant after retirement. Excluded from this definition, is reference to the state sponsored optional retirement and optional annuity programs which are presently available to employees in the State Senior Management Service and State University Faculty.

Additionally, s. 110.123(5), requires the Department of Administration, subject to legislative approval, to determine benefits to be provided and the contributions (premiums) to be assessed under the State Group Health Insurance Program. Currently the Program provides definite limits on benefit coverage for alcoholism, drug addiction and mental or nervous disorders. Such controls have been designed to contain plan costs, yet pay for treatment for such disorders within reasonable limits. Only employees may receive inpatient treatment at specialty hospitals for alcoholism or drug addiction; both employees and their dependents may receive outpatient treatment at a licensed alcohol and drug abuse facility under an approved program on a formal, organized and regularly scheduled treatment basis. Both employees and their dependents may receive acute care treatment for alcoholism, drug addiction and mental and nervous disorders at general medical/surgical hospitals. Each of these treatment methods is subject to dollar or time limitations or both.

Pursuant to Section 89 of the Internal Revenue Code of 1986, the State Employee Health Insurance Plan is presently being examined to determine whether it is in compliance with the provisions of this federal act. The federal legislation requires that the state health and life insurance plans be administered in a qualified nondiscriminatory manner as it pertains to all state employees.

Presently the Division of State Employees Insurance has been tasked with the responsibility of capturing, storing, analyzing, retrieving, and updating data relative to the state's compliance. The Department of Administration has contracted and provided the above information to a consultant, and preliminary testing of the plan has begun.

Section 2. The 1988 Legislature established the Pretax Benefits Program Act (s. 110.161 F.S.), which authorizes the Department of Administration to establish and administer a flexible benefit plan for the employees of the State. Implementing guidelines are sanctioned under Section 125 of the Internal Revenue Code for 1986. One requirement under section 125 is forfeiture of any unused funds remaining in employee accounts at the close of the plan year; the 1988 Legislature did not specify the disposition of these forfeited funds. Section 110.161(7) established the Pretax Benefits Trust Fund in the Department of Administration and required that savings realized by the State as a result of

the implementation of the Program shall be used for the administration of the Pretax Benefits Program.

**Section 3.** Pursuant to s. 215.18, F.S., in November 1988 the Administration Commission approved a transfer of moneys from the trust funds of the State Treasury to the Pretax Benefits Trust Fund which were needed for program start-up costs. The law requires such monies to be repaid no later than June 30, 1989.

**Section 4.** The 1988 Florida Legislature made several changes to the provisions of s. 110.217 F.S. (Chapter 88-290 Laws of Florida), which relate to employee registers, appointments, and promotions. In the passage of this legislation, several omissions relative to obsolete language went unaddressed and still exist in current statute.

**Sections 5, 6, and 7.** On May 22, 1984 the Governor and Cabinet passed a Cabinet Resolution which in order to protect the integrity of government and to apprise state employees of the nature of activities considered conflicts of interest, established a standard of conduct for state employees with direct regulatory responsibilities. The standard of conduct was applicable to Career Service and Senior Management Service employees:

The resolution further requested the Department of Administration to develop for review by the Administration Commission proposed amendments to Chapter 22, Florida Administrative Code, which would implement their recommended standard of conduct.

Pursuant to the request by the Governor and Cabinet, Chapter 22A-16 and Chapter 22SM-2 were promulgated, approved by the Administration Commission on January 22, 1985 and subsequently forwarded to the Joint Administrative Procedures Committee for approval.

Upon review by the committee, an objection was raised on the grounds that the rules were promulgated without proper statutory authority.

Part III of Chapter 112 F.S., currently provides a Code of Ethics for Public Officers and Employees of the state and its' political subdivisions.

**B. EFFECT OF PROPOSED CHANGES:**

**C. SECTION-BY-SECTION ANALYSIS:**

**Section 1.**

Contained in this section is the reenactment of certain provisions of C/S for House Bill 836 (88-126 Laws of Florida) which were recently held to be unconstitutional based on violation of the single subject rule pursuant to Article III Section 6 of the Florida Constitution. Such reenactment will

resolve the constitutional issue.

The proposed legislation provides the inclusion of the Senior Management Service and State University System optional retirement or optional annuity retirement programs in the definition of "Retired state officer or employee" or "retiree".

This section addresses changes in state employees' mental health insurance benefits. In determining the benefits to be provided under the State Employees' Group Health Insurance Program, the Department is authorized to negotiate and contract, on a regional basis, with specialty psychiatric hospitals for mental health benefits including alcohol, drug abuse, and mental and nervous disorders. The Department is required to conduct an actuarial study on the provision of such benefits to determine the impact on plan premiums and benefits and submit a report to the Legislature by February 1, 1990. Pursuant to current law the Department would be required to seek legislative approval prior to implementing any such benefit changes.

In addition, the bill provides the Department of Administration with the statutory authority to adopt rules which are necessary to assure the State Health Insurance Plan is administered in a qualified nondiscriminatory manner consistent with the provisions of Section 89 of the Internal Revenue Code of 1986.

## Section 2.

This section of the bill amends the State Employees' Pretax Benefits Program to allow any unused funds remaining in the employee accounts at the close of each plan year to be deposited into the Pretax Benefits Trust Fund. Further, any moneys in excess of the amount appropriated for the program would be transferred to the State Employees' Group Health Insurance Trust Fund.

## Section 3.

The text of this section extends the time within which the Department of Administration must repay those funds previously transferred from the trust funds of the State Treasury to the Pretax Benefits Trust Fund for program start-up costs. The bill extends the repayment date to "no later than June 30, 1990."

## Section 4.

This section is house-cleaning in nature. The terms "registers" and "reinstatement" are obsolete, subsequent to 1988 legislative action, and are eliminated accordingly.

## Section 5.

Provides the Department of Administration with the statutory authority to adopt by rule a code of ethics for employees in the Career Service System.

Section 6.

Provides the Department of Administration with the statutory authority to adopt by rule a code of ethics for employees in the Senior Management Service.

Section 7.

Provides the Department of Administration with the statutory authority to adopt by rule a code of ethics for employees in the Selected Exempt Service.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

The costs associated with promulgating rules and conducting the actuarial study for mental health services will be borne by the Department of Administration.

2. Recurring or Annualized Continuation Effects:

It is anticipated that expanding the current provisions relating to mental health services would have a substantial cost impact on the State Employees' Group Health Insurance; the bill and current statute, however, require the Department to conduct an actuarial study and report the cost to the Legislature for its approval prior to implementing any benefit changes.

3. Long Run Effects Other Than Normal Growth:

See above.

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:

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

None.


V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
\_\_\_\_\_  
Randy T. Duchton

Staff Director:

  
\_\_\_\_\_  
Ron Poppell

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_  
\_\_\_\_\_

Staff Director:

\_\_\_\_\_  
\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_  
\_\_\_\_\_

Staff Director:

\_\_\_\_\_  
\_\_\_\_\_