

## CHAPTER 98-400

### Committee Substitute for House Bill No. 4283

An act relating to long-term care; requiring the Department of Elderly Affairs and the Division of State Group Insurance to design a long-term-care plan for public employees and their families; requiring the division to coordinate marketing of the plan; providing for use of plan funds for marketing expenses; authorizing the division to contract with the State Board of Administration to invest certain funds; providing limitations; creating a Florida Employee Long-Term-Care Plan Board of Directors; providing for board membership, terms, and duties; requiring an annual report; providing for expenses of the board; prohibiting use of state funds for certain costs; providing for expiration of the act; providing an effective date.

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

#### Section 1. Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(a) It is the intent of the Legislature that the Division of State Group Insurance and the Department of Elderly Affairs implement a self-funded or fully insured, voluntary, long-term-care plan for public employees and their families.

(b) The Department of Elderly Affairs and the Division of State Group Insurance shall jointly design the plan to provide long-term-care coverage for public employees and family members of public employees. The Division of State Group Insurance and the Department of Elderly Affairs shall enter into an interagency agreement defining their roles with regard to plan development and design. Joint planning expenses shall be shared to the extent that funded planning activities are consistent with the goals of the department and the division. Eligible plan participants must include active and retired officers and employees of all branches and agencies of state and local government and their spouses, children, stepchildren, parents, and parents-in-law; active and retired federal employees residing in the state and their spouses, children, stepchildren, parents, and parents-in-law residing in the state; and the surviving spouses, children, stepchildren, parents, and parents-in-law of such deceased officers and employees, whether active or retired at the time of death.

(c) This act in no way affects the Division of State Group Insurance's authority pursuant to s. 110.123.

(2) As used in this section, the term:

(a) "Department" means the Department of Elderly Affairs.

(b) "Division" means the Division of State Group Insurance.

(c) "Self-funded" means that plan benefits and costs are funded from contributions made by or on behalf of participants and trust fund investment revenue.

(d) "Plan" means the Florida Employee Long-Term-Care Plan.

(3) The division and the department shall, in consultation with public employers and employees and representatives from unions and associations representing state, university, local government, and other public employees, establish and supervise the implementation and administration of a self-funded or fully insured long-term-care plan entitled "Florida Employee Long-Term-Care Plan."

(a) The division and the department shall, in consultation with the department, the Department of Management Services, and the Department of Insurance, contract for actuarial, professional-administrator, and other services for the Florida Employee Long-Term-Care Plan.

(b) When contracting for a professional administrator, the division shall consider, at a minimum, the entity's previous experience and expertise in administering group long-term-care self-funded plans or long-term-care insurance programs; the entity's demonstrated ability to perform its contractual obligations in the state and in other jurisdictions; the entity's projected administrative costs; the entity's capability to adequately provide service coverage, including a sufficient number of experienced and qualified personnel in the areas of marketing, claims processing, recordkeeping, and underwriting; the entity's accessibility to public employees and other qualified participants; and the entity's financial soundness and solvency.

(c) Any contract with a professional administrator entered into by the division must require that the state be held harmless and indemnified for any financial loss caused by the failure of the professional administrator to comply with the terms of the contract.

(d) The division shall explore innovations in long-term-care financing and service delivery with regard to possible future inclusion in the plan. Such innovative financing and service-delivery mechanisms may include managed long-term care and plans that set aside assets with regard to eligibility for Medicaid-funded long-term-care services in the same proportion that private long-term-care insurance benefits are used to pay for long-term care.

(4) The division and the department shall coordinate, directly or through contract, marketing of the plan. Expenses related to such marketing shall be reimbursed from funds of the plan.

(5) The division shall contract with the State Board of Administration for the investment of funds in the Florida Employee Long-Term-Care Plan reserve fund. Plan funds are not state funds. The moneys shall be held by the State Board of Administration on behalf of enrollees and invested and disbursed in accordance with a trust agreement approved by the division

and the State Board of Administration and in accordance with the provisions of sections 215.44-215.53, Florida Statutes. Moneys in the reserve fund may be used only for the purposes specified in the agreement.

(6) A Florida Employee Long-term Care Plan Board of Directors is created, composed of seven members who shall serve 2-year terms, to be appointed as follows:

(a) The Secretary of the Department of Elderly Affairs shall appoint a member who is a plan participant.

(b) The Insurance Commissioner shall appoint an actuary.

(c) The Attorney General shall appoint an attorney licensed to practice law in this state.

(d) The Governor shall appoint three members from a broad cross-section of the residents of this state.

(e) The division shall appoint a member.

(7) The board of directors of the Florida Long-term Care Plan shall:

(a) Prepare an annual report of the plan, with the assistance of an actuarial consultant, to be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Minority Leaders of the Senate and the House of Representatives.

(b) Approve the appointment of an executive director jointly recommended by the division and the department to serve as the chief administrative and operational officer of the Florida Employee Long-term Care Plan.

(c) Approve the terms of the division's third-party administrator contract.

(d) Implement such other policies and procedures as necessary to assure the soundness and efficient operation of the plan.

(8) Members of the board may not receive a salary, but may be reimbursed for travel, per diem, and administrative expenses related to their duties. Board expenses and costs for the annual report and other administrative expenses must be borne by the plan. State funds may not be contributed toward costs associated with board members or their activities conducted on behalf of and for the benefit of plan beneficiaries.

Section 2. This act shall take effect July 1, 1998.

Became a law without the Governor's approval May 31, 1998.

Filed in Office Secretary of State May 29, 1998.