

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 815 County and Municipal Public Officers and Employees  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Avila  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 2 N, As CS	Darden	Miller
2) Public Integrity & Ethics Committee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Official travel by local government officers and employees is generally governed by a state-wide structure which defines types of travel and sets standardized rates for reimbursement. Taxpayer funds may only be used for official travel necessary to achieve public purposes and subject to limitations set by general law. All travel must be approved the county or municipal governing body or the body's designee. Counties, school boards, special districts, and metropolitan planning organizations may adopt reimbursement rates that differ from general law, as long as those rates are at least as much as the statutorily established rates that were in effect during the 2005-2006 fiscal year.

Candidates for public office are required to file periodic reports of contributions received and expenditures made. Each candidate must file reports with the officer before whom the candidate is required by law to qualify.

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests. Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.

The bill requires travel by county and municipal officers to be approved by the governing body of the applicable local government at a publicly noticed meeting. The bill requires the request to appear on the meeting agenda with an itemized list of anticipated travel expenses and the public be given an opportunity to comment. The bill limits the time period for which travel expenses may be reimbursed and prohibits local governments from paying for foreign travel by county and municipal officers and employees. The bill provides an exemption from these provisions for elected county constitutional officers.

The bill requires a county or municipal elected official who is a candidate for elected office to make available required campaign finance reports on the county or municipality's website. The bill requires county or municipal elected officials to report travel expenses that are reimbursed from taxpayer funds to the commission on ethics for the applicable local government or to the state Commission on Ethics, if no local ethics commission exists. The bill requires county and municipal elected officials to comply with applicable financial disclosure requirements under s. 8, Art. II of the Florida Constitution.

The bill may have an indeterminate, but likely insignificant, fiscal impact on state and local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Official Travel by County and Municipal Officials and Employees

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>1</sup> In the case of local government officials and employees, all travel must be approved by the governing body of the local government or by a designated representative of the body.<sup>2</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that the travel is for official business. The local government may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>3</sup> Per diem costs related to foreign travel may be paid by advancement or reimbursement, at current rates specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)."<sup>4</sup>

Travel is divided into four categories:<sup>5</sup>

- Class A: Continuous travel of 24 hours or more away from official headquarters.
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.<sup>6</sup> Travelers conducting Class A or Class B travel are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence allowance based on the time of travel.<sup>7</sup>

Class C travelers receive a subsistence allowance of \$6 for breakfast, \$11 for lunch, and \$19 for dinner.<sup>8</sup> The per diem and subsistence allowance for Class A and B travelers is the greater of:<sup>9</sup>

- \$80 per day; or
- the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.

Travelers are only reimbursed for the actual expenses of lodging or meals when the lodging or meals are provided at a state institution and may not be reimbursed for any meal or lodging included in a convention or conference registration fee paid for with taxpayer funds.<sup>10</sup>

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<sup>1</sup> Section 112.061(1), F.S.

<sup>2</sup> See s. 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. S. 112.061(2)(b), F.S.

<sup>3</sup> Section 112.061(3)(b), F.S.

<sup>4</sup> Section 112.061(3)(f), F.S.

<sup>5</sup> Section 112.061(2)(k)-(n), F.S. The "official headquarters" of an officer or employee is the city or town where the office of the employee is located.

<sup>6</sup> Section 112.061(5)(a), F.S.

<sup>7</sup> Section 112.061(5)(b), F.S.

<sup>8</sup> Section 112.061(6)(b), F.S.

<sup>9</sup> Section 112.061(6)(a), F.S.

<sup>10</sup> Section 112.061(6)(a), (c), F.S.

Public officers and employees may also receive reimbursement for transportation expenses.<sup>11</sup> Travel is reimbursed according to a “usually traveled route,” with any costs associated with deviation from that route being borne by the traveler. The governing body of the local government or the body’s designee must determine the most economical method of travel, taking into account the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>12</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>13</sup> Use of a personal vehicle for official business is reimbursed to the travel at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.<sup>14</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>15</sup>

Travelers may also be reimbursed for:<sup>16</sup>

- taxi fare;
- ferry fares;
- bridge, road, and tunnel tolls;
- storage or parking fees;
- communication expenses; and
- convention registration fees, if the convention/conference serves a direct public purpose with relation to the employer of the public official, including expenses such a banquet or other meal fees, if the travel can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.

Counties, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates that were in effect during the 2005-2006 fiscal year.<sup>17</sup> Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the entity.<sup>18</sup>

The Department of Financial Services (DFS) is required to adopt rules to determine the justification for state officers and employees to attend conferences and conventions.<sup>19</sup> State agencies are required to adopt specific rules for this purpose that do not conflict with rules adopted by DFS.<sup>20</sup>

Travelers are not required to provide notarized documentation of travel expenses, but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler who makes a deliberate misrepresentation is guilty of a second-degree misdemeanor and shall be civilly liable for the amount of overpayment.<sup>21</sup>

### Campaign Finance Reports

Candidates, political committees, and electioneering communications organizations are required to file periodic reports of contributions received and expenditures made.<sup>22</sup> Each candidate and political committee must file reports with the officer before whom the candidate is required by law to qualify.<sup>23</sup>

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<sup>11</sup> Section 112.061(7), F.S.

<sup>12</sup> Section 112.061(7)(a), F.S.

<sup>13</sup> Section 112.061(7)(c), F.S.

<sup>14</sup> Section 112.061(7)(d)1., F.S.

<sup>15</sup> Section 112.061(7)(d)3., F.S.

<sup>16</sup> Section 112.061(8), F.S.

<sup>17</sup> Section 112.061(14)(a), F.S.

<sup>18</sup> Section 112.061(14)(b), F.S.

<sup>19</sup> Section 112.061(9)(a), F.S.

<sup>20</sup> Section 112.061(9)(b), F.S.

<sup>21</sup> Section 112.061(10), F.S.

<sup>22</sup> See ch. 106, F.S.

<sup>23</sup> Section 106.07(2)(a)1., F.S.

Statewide candidates and political committees are required to file campaign finance reports with the Division of Elections (Division).<sup>24</sup> Those candidates and committees must file monthly contribution and expenditure reports until the 60th day before the primary, weekly reports beginning on the 60th day before the primary, and daily contribution reports beginning the 10th day before the general election.<sup>25</sup> Candidates and political committees that are required to file with an entity other than the Division must file reports on the 60th day immediately preceding the primary election, and biweekly on each Friday thereafter with additional reports due on the 25th and 11th days before the primary election and the general election.<sup>26</sup> Electioneering communications organizations<sup>27</sup> and political party executive committee candidates have distinct reporting requirements that differ from candidates and political committees.<sup>28</sup>

### Financial Disclosure Requirements

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests.<sup>29</sup> Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.<sup>30</sup>

Pursuant to the Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.<sup>31</sup> The disclosure must be accompanied by either a sworn statement with this information or a copy of the reporting individual’s most recent federal income tax return.<sup>32</sup> Pursuant to general law, the Commission on Ethics (Commission) has created by rule CE Form 6 to be used to make the required full and public financial disclosure.<sup>33</sup>

According to the Commission, and as articulated on the form, individuals holding the following positions must file CE Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.<sup>34</sup>

Reporting individuals are required to file CE Form 6 annually with the Commission by July 1.<sup>35</sup> Additionally, candidates for a constitutional office are required to make a full and public disclosure of their financial interests at the time of qualifying.<sup>36</sup>

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<sup>24</sup> Section 106.07(1)(a), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 106.07(1)(b), F.S.

<sup>27</sup> *See* s. 106.011(9), F.S.

<sup>28</sup> *See* ss. 106.0702 and 106.0703, F.S.

<sup>29</sup> Art. II, ss. 8(a) and 8(i)(2), Fla. Const.

<sup>30</sup> Art. II, s. 8(a), Fla. Const.

<sup>31</sup> Art. II, s. 8(i)(1), Fla. Const.

<sup>32</sup> *Id.*

<sup>33</sup> Section 112.3144(5), F.S.; *see also* Rule 34-8.002, F.A.C.

<sup>34</sup> Rule 34-8.003, F.A.C. County commissioners are included because that office is established by art. VIII, s. 1(e) of the Florida Constitution.

<sup>35</sup> Rule 34-8.002, F.A.C.

<sup>36</sup> Section 99.061(5), F.S.

While elected city commissioners may have similar authority and spending power as county commissioners and other public officers that are required to file CE Form 6, state law only requires city commissioners to file CE Form 1, which is a less detailed form of financial disclosure.<sup>37</sup> Elected municipal officers, and candidates for such offices, must file this form at the time of qualifying and annually by July 1.<sup>38</sup>

Florida law requires municipalities to submit annual financial reports to DFS.<sup>39</sup> DFS in turn verifies the data and publishes a report on its website showing, among other data, municipal revenues, expenditures, and long-term debt.<sup>40</sup>

### **Effect of Proposed Changes**

The bill requires any out-of-state travel by a county or municipal public office to be approved by the governing body of the county or municipality at a publicly noticed meeting. The request must be included on the meeting agenda and provide an itemized list of all anticipated travel expenses. The meeting must provide an opportunity for the public to comment before the expense is approved. The governing body of the county or municipality may approve the rest by a majority vote of the members present and voting. The approved expenses are limited to those necessarily incurred by the public officer for a period beginning 24 hours before the start of the event and ending 24 hours after the event necessitating the travel.

The bill prohibits payment of or reimbursement for the foreign travel expenses of any county or municipal public officer or employee under any circumstances. The bill provides an exemption from these provisions for elected county constitutional officers.<sup>41</sup>

The bill requires a county or municipal public official who is a candidate for elected office to make campaign finance reports filed pursuant to s. 106.07, F.S., available for public view on the county or municipality's website.

The bill requires any county or municipal public officer to report travel expenses that are paid for or reimbursed from taxpayer funds to the commission on ethics of the applicable county or municipality. If the county or municipality has not established a commission on ethics, the public office must report travel expenses to the state Commission on Ethics. The report must include the purpose of the travel, justify the necessity of the travel, and provide proof of expenses.

The bill requires county and municipal public officers to comply with the applicable financial disclosure requirements of s. 8, Art. II of the Florida Constitution by January 1, 2019. According to an agency analysis by the Commission on Ethics, this provision would require both county and municipal public officers to file CE Form 6, "Full and Public Disclosure of Financial Interests,"<sup>42</sup>

### **B. SECTION DIRECTORY:**

Section 1: Amends s. 99.061, F.S., concerning statements of financial interest for candidates for municipal elected offices.

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<sup>37</sup> Section 112.3145(3), F.S.; *see also* Rule 34-8.202, F.A.C. Unlike the office of county commissioner, municipal public offices are created by general or special law and not in the Florida Constitution. *See* art. VIII, s. 2(a), Fla. Const.

<sup>38</sup> Rule 34-8.202, F.A.C.

<sup>39</sup> Section 218.32(1), F.S.

<sup>40</sup> Section 218.32(2), F.S.

<sup>41</sup> The sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court are the constitutional officers of a county. Art. VIII, s. 1(d), Fla. Const.

<sup>42</sup> Florida Commission on Ethics, Agency Analysis of 2018 House Bill 815, p. 1 (Dec. 20, 2017).

- Section 2: Amends s. 106.07, F.S., concerning posting any campaign financial reports for a county or municipality elected official to the website of the relevant local government.
- Section 3: Amends s. 112.061, F.S., concerning travel by county or municipal officers.
- Section 4: Amends s. 112.3144, F.S., concerning full and public disclosure of financial interests by municipal elected officials.
- Section 5: Provides an effective date of July 1, 2018, except that sections 1 and 4 take effect January 1, 2019.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill appears to have an indeterminate but likely insignificant negative fiscal impact on the Commission on Ethics to the extent additional staff and resources are needed to process travel expense reports.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill appears to have an indeterminate fiscal impact on counties and municipalities. The bill appears have an indeterminate but likely insignificant negative fiscal impact due to increase reporting requirements. The bill appears to have an indeterminate positive fiscal impact to the extent the provisions reduce the frequency and cost of travel by public officials.

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

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires counties and municipalities to maintain a website to provide access to campaign finance reports; however, an exemption may apply since this requirement appears to have an insignificant fiscal impact to county or municipal governments.

2. Other:

The bill revises the requirements for approving and reimbursing travel by employees and officers of a county, and thus appears to make subject to the approval of the county commissioners travel requests for or on behalf of the following elected county constitutional officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of courts. While a county may adopt a charter abolishing one or more of these constitutional offices, where the elected county constitutional office remains intact the officer is not subject to the control of the county commission as to fulfilling the requirements of that office.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide rulemaking authority or require executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment restructures the provisions of the bill to clarify the ability of the Commission on Ethics to ensure compliance and to require city commissioners to file CE Form 6. The amendment also removes the \$120 cap on per diem expenses for local government officers and employees and provides an exemption for elected county constitutional officers from certain limitations on travel created by the bill.

This analysis is drafted to the committee substitute as passed by the Local, Federal & Veterans Affairs Subcommittee.