

By Senators Kirkpatrick, Sullivan and Forman

5-1239-98

See HB

1                                   A bill to be entitled  
2           An act relating to computers; creating s.  
3           14.025, F.S., relating to the Governor;  
4           recognizing the potential computer problems  
5           that may occur in state agencies due to the  
6           date change necessitated by the year 2000;  
7           authorizing the Governor to reassign resources  
8           in the event of a likely computer failure;  
9           authorizing the Administration Commission to  
10          reassign resources if an agency headed by the  
11          Governor and Cabinet or a Cabinet officer is  
12          likely to experience a computer failure;  
13          requiring the reassignment of resources to  
14          conform with the law governing budget  
15          amendments; requiring the reassignment of  
16          personnel to conform with the law governing  
17          employee interchanges; requiring legislative  
18          approval if a reassignment of resources is  
19          necessary for more than 90 days; authorizing  
20          legislative veto of the reassignment of state  
21          resources; providing for repeal of the powers  
22          granted to the Governor; amending ss. 112.24  
23          and 112.27, F.S., relating to employee  
24          interchange programs; clarifying that state  
25          agencies may exchange employees; creating s.  
26          282.4045, F.S.; providing legislative findings  
27          relating to the adequacy of the state's actions  
28          to prevent year 2000 computer failures;  
29          protecting the state and units of local  
30          government against legal actions that result  
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1 from a year 2000 computer date calculation  
2 failure; providing an effective date.

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

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6 Section 1. Section 14.025, Florida Statutes, is  
7 created to read:

8 14.025 Executive powers for year 2000 computer  
9 remediation.--

10 (1) In the event the Governor believes that a computer  
11 system may fail related to the impending date change  
12 necessitated by the year 2000, or in the event of a computer  
13 system failure related to the date change necessitated by the  
14 year 2000, the Governor may reassign resources, including  
15 personnel, from one or more agencies or departments to the  
16 agency with the projected or actual computer system failure.  
17 If this agency is under the control of the Governor, and the  
18 agencies affected by the reassignment of resources also are  
19 under the control of the Governor, the actions and decisions  
20 of the Governor with respect to the reassignment of resources  
21 are final. If the transfer is from an agency under the control  
22 of the Governor to an agency under the control of the Governor  
23 and Cabinet or the transfer is from an agency under the  
24 control of the Governor and Cabinet to an agency under the  
25 control of the Governor, the recommendation by the Governor  
26 shall be forwarded to the Administration Commission for  
27 approval.

28 (2) If a year 2000 computer system failure occurs, or  
29 is predicted to occur, in an agency under the control of the  
30 Governor and Cabinet, and the Governor recommends the  
31 reassignment of resources, including personnel, from an agency

1 under the control of the Governor and Cabinet, such  
2 recommendation by the Governor shall be forwarded to the  
3 Administration Commission for approval.

4 (3) If a year 2000 computer system failure occurs, or  
5 is predicted to occur, in an agency under the control of a  
6 Cabinet officer, and the Governor recommends the reassignment  
7 of resources, including personnel, from an agency under the  
8 control of a Cabinet officer, such recommendation by the  
9 Governor shall be forwarded to the Administration Commission  
10 for approval.

11 (4) Notwithstanding ss. 216.292 and 216.351, or any  
12 other law to the contrary, moneys reassigned related to a  
13 predicted or actual year 2000 computer system failure must be  
14 transferred as specified by s. 216.177. The Governor shall  
15 follow the process in part II of chapter 112 in transferring  
16 personnel among affected agencies. The transfer of personnel  
17 or moneys for more than 90 days must have the concurrence of  
18 the President of the Senate, the Speaker of the House of  
19 Representatives, and a majority of the members of each of the  
20 House and Senate fiscal committees.

21 (5) The Legislature may, by concurrent resolution,  
22 terminate the reassignment of state resources made pursuant to  
23 this section.

24 (6) This section is repealed July 1, 2003.

25 Section 2. Section 112.24, Florida Statutes, is  
26 amended to read:

27 112.24 Intergovernmental transfer and interchange of  
28 public employees.--To encourage economical and effective  
29 utilization of public employees in this state, the temporary  
30 assignment of employees among agencies of government, both  
31 state and local, and including school districts and public

1 institutions of higher education is authorized under terms and  
2 conditions set forth in this section. State agencies,  
3 municipalities, and political subdivisions are authorized to  
4 enter into employee interchange agreements with other state  
5 agencies, the Federal Government, ~~with~~ another state, a ~~with~~  
6 ~~another~~ municipality, or a political subdivision including a  
7 school district, or with a public institution of higher  
8 education. State agencies are also authorized to enter into  
9 employee interchange agreements with private institutions of  
10 higher education and other nonprofit organizations under the  
11 terms and conditions provided in this section. In addition,  
12 the Governor or the Governor and Cabinet may enter into  
13 employee interchange agreements with a state agency, the  
14 Federal Government, ~~with~~ another state, ~~with~~ a municipality,  
15 or a political subdivision including a school district, or  
16 with a public institution of higher learning to fill, subject  
17 to the requirements of chapter 20, appointive offices which  
18 are within the executive branch of government and which are  
19 filled by appointment by the Governor or the Governor and  
20 Cabinet. Under no circumstances shall employee interchange  
21 agreements be utilized for the purpose of assigning  
22 individuals to participate in political campaigns. Duties and  
23 responsibilities of interchange employees shall be limited to  
24 the mission and goals of the agencies of government.

25 (1) Details of an employee interchange program shall  
26 be the subject of an agreement, which may be extended or  
27 modified, between a sending party and a receiving party.  
28 State agencies shall report such agreements and any extensions  
29 or modifications thereto to the Department of Management  
30 Services.

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1           (2) The period of an individual's assignment or detail  
2 under an employee interchange program shall not exceed 2  
3 years. Upon agreement of the sending party and the receiving  
4 party and under the same or modified terms, an assignment or  
5 detail of 2 years may be extended by 3 months. However,  
6 agreements relating to faculty members of the State University  
7 System may be extended biennially upon approval by the  
8 Department of Management Services. If the appointing agency is  
9 the Governor or the Governor and Cabinet, the period of an  
10 individual's assignment or detail under an employee  
11 interchange program shall not exceed 2 years plus an extension  
12 of 3 months or the number of years left in the term of office  
13 of the Governor, whichever is less.

14           (3) Salary, leave, travel and transportation, and  
15 reimbursements for an employee of a sending party that is  
16 participating in an interchange program shall be handled as  
17 follows:

18           (a) An employee of a sending party who is  
19 participating in an interchange agreement may be considered as  
20 on detail to regular work assignments of the sending party or  
21 in a leave status from the sending party except that the  
22 receiving agency shall pay the salary and benefits of such  
23 employee during the time, in excess of 1 week, that the  
24 employee is working for the receiving agency. However, an  
25 employee of a sending party who is participating in an  
26 interchange agreement pursuant to s. 10, chapter 91-429, Laws  
27 of Florida, shall be considered as on detail to regular work  
28 assignments of the sending party, and the sending party shall  
29 reimburse the receiving agency for the salary and benefits and  
30 expenses of such employee and any other direct costs of  
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1 conducting the inspections during the time the employee is  
2 working for the receiving agency.

3 1. If on detail, an employee shall receive the same  
4 salary and benefits as if he or she were not on detail and  
5 shall remain the employee of the sending party for all  
6 purposes except that supervision during the period of detail  
7 may be governed by the interchange agreement.

8 2. If on leave, an employee shall have the same  
9 rights, benefits, and obligations as other employees in a  
10 leave status subject to exceptions provided in rules for state  
11 employees issued by the department or the rules or other  
12 decisions of the governing body of the municipality or  
13 political subdivision.

14 (b) The assignment of an employee of a state agency  
15 either on detail or on leave of absence may be made without  
16 reimbursement by the receiving party for the travel and  
17 transportation expenses to or from the place of the assignment  
18 or for the pay and benefits, or a part thereof, of the  
19 employee during the assignment.

20 (c) If the rate of pay for an employee of an agency of  
21 the state on temporary assignment or on leave of absence is  
22 less than the rate of pay he or she would have received had  
23 the employee continued in his or her regular position, such  
24 employee is entitled to receive supplemental pay from the  
25 sending party in an amount equal to such difference.

26 (d) Any employee who participates in an exchange under  
27 the terms of this section who suffers disability or death as a  
28 result of personal injury arising out of and in the course of  
29 an exchange, or sustained in performance of duties in  
30 connection therewith, shall be treated, for the purposes of  
31 the sending party's employee compensation program, as an

1 employee who sustained injury in the performance of duty, but  
2 shall not receive benefits under such program for any period  
3 for which the employee is entitled to, and elects to receive,  
4 similar benefits under the receiving party's employee  
5 compensation program.

6 (e) A sending party in this state may, in accordance  
7 with the travel regulations of such party, pay the travel  
8 expenses of an employee who is assigned to a receiving party  
9 on either detail or leave basis, but shall not pay the travel  
10 expenses of such an employee incurred in connection with work  
11 assignments at the receiving party. If the assignment or  
12 detail will exceed 8 months, travel expenses may include  
13 expenses to transport immediate family, household goods, and  
14 personal effects to and from the location of the receiving  
15 party. If the period of assignment is 3 months or less, the  
16 sending party may pay a per diem allowance to the employee on  
17 assignment or detail.

18 (4)(a) When any agency, municipality, or political  
19 subdivision of this state acts as a receiving party, an  
20 employee of the sending party who is assigned under authority  
21 of this section may be given appointments by the receiving  
22 party covering the periods of such assignments, with  
23 compensation to be paid from the receiving party's funds, or  
24 without compensation, or be considered to be on detail to the  
25 receiving party.

26 (b) Appointments of persons so assigned may be made  
27 without regard to the laws or regulations governing the  
28 selection of employees of the receiving party.

29 (c) During the period of an assignment, the employee  
30 who is detailed to the receiving party shall not by virtue of  
31 such detail be considered an employee of the receiving party,

1 except as provided in paragraph (d), nor shall the employee be  
2 paid a wage or salary by the receiving party. The supervision  
3 of an employee during the period of the detail may be governed  
4 by agreement between the sending party and the receiving  
5 party. A detail of an employee to a state agency may be made  
6 with or without reimbursement to the sending party by the  
7 receiving party for the pay and benefits, or a part thereof,  
8 of the employee during the period of the detail.

9 (d) If the sending party of an employee assigned to an  
10 agency, municipality, or political subdivision of this state  
11 fails to continue making the employer's contribution to the  
12 retirement, life insurance, and health benefit plans for that  
13 employee, the receiving party of this state may make the  
14 employer's contribution covering the period of the assignment  
15 or any part thereof.

16 (e) Any employee of a sending party assigned in this  
17 state who suffers disability or death as a result of personal  
18 injury arising out of and in the course of such assignment, or  
19 sustained in the performance of duties in connection  
20 therewith, shall be treated for the purpose of the receiving  
21 party's employee compensation program, as an employee who has  
22 sustained injury in the performance of duty, but shall not  
23 receive benefits under such program for any period for which  
24 he or she elects to receive similar benefits as an employee  
25 under the sending party's employee compensation program.

26 (f) A receiving party in this state may, in accordance  
27 with the travel regulations of such party, pay travel expenses  
28 of persons assigned thereto during the period of such  
29 assignments on the same basis as if they were regular  
30 employees of the receiving party.

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1           (5) An agency may enter into agreements with private  
2 institutions of higher education in this state as the sending  
3 or receiving party as specified in subsections (3) and (4).

4           Section 3. Subsection (1) of section 112.27, Florida  
5 Statutes, is amended to read:

6           112.27 Authority to interchange employees.--

7           (1) Any department, agency, or instrumentality of the  
8 state is authorized to participate in a program of interchange  
9 of employees with departments, agencies, or instrumentalities  
10 of the state, the federal government, or another state, as a  
11 sending or receiving agency.

12           Section 4. Section 282.4045, Florida Statutes, is  
13 created to read:

14           282.4045 Immunity for state agencies and units of  
15 local government for year 2000 computer date calculation  
16 failures.--

17           (1) The Legislature finds that the state and units of  
18 local government have taken due care to prepare for the date  
19 change that will accompany the year 2000. Beginning early in  
20 the 1990s, the state alerted its departments and agencies of  
21 the potential computer problems that may accompany the year  
22 2000 date change. In 1997, the state hired a consultant  
23 experienced in planning for and addressing the changes  
24 necessitated by the year 2000. The state also established an  
25 office in the Governor's Office of Planning and Budgeting to  
26 coordinate the efforts of the consultant, state agencies, and  
27 local entities in identifying and finding solutions for  
28 potential year 2000 computer system problems. It is estimated  
29 that state agencies will spend between \$75 and \$90 million in  
30 remediation costs to prevent computer failures and date  
31 miscalculations. The efforts of the state are ongoing with

1 respect to year 2000 remediation. The state has acted with  
2 diligence in addressing the year 2000 issue and in providing  
3 remedies when problems are identified. All of these actions  
4 have been taken in an effort to ensure the continuity of state  
5 services to the citizens of Florida as the 20th century nears  
6 an end.

7 (2) There shall be no cause of action at law, nor  
8 administrative actions maintained, against the state, its  
9 agencies or instrumentalities, or any unit of local government  
10 for actions or inactions that are attributable to a year 2000  
11 computer date calculation failure, and there shall be no  
12 waiver of sovereign immunity with respect to the same.

13 Section 5. This act shall take effect upon becoming a  
14 law.

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17 LEGISLATIVE SUMMARY

18 Authorizes the Governor to transfer resources between  
19 agencies in the event of a computer failure that may  
20 occur in state agencies due to the date change  
21 necessitated by the year 2000. Authorizes the  
22 Administration Commission to reassign resources if an  
23 agency headed by the Governor and Cabinet or a Cabinet  
24 officer is likely to experience a computer failure.  
25 Provides procedures with respect to such transfers.  
26 Provides that there shall be no cause of action at law,  
27 nor administrative actions maintained, against the state,  
28 its agencies or instrumentalities, or any unit of local  
29 government for actions or inactions that are attributable  
30 to a year 2000 computer date calculation failure, and  
31 there shall be no waiver of sovereign immunity with  
respect to the same. (See bill for details.)