

STORAGE NAME: h0441a.fs

DATE: March 5, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 441

RELATING TO: Operational Responsibilities of the Comptroller

SPONSOR(S): Representative Sanderson

STATUTE(S) AFFECTED: ss. 17.20; 17.325; 687.143; 939.01, F.S.

COMPANION BILL(S): SB 300 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES YEAS 10 NAYS 0
- (2) FINANCE & TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill modifies the process used by the Comptroller to compensate contractors who recover abandoned property and deliver it to the state. It allows these contractors to deduct their fees and expenses from the property recovered, rather than await payment through the budgeting process of the Department of Business and Finance (DBF). The bill also directs that costs and expenses recovered pursuant to the DBF's investigatory authority be deposited in the trust fund for the division which initiated the investigation.

Additional changes in the bill are designed to streamline the Comptroller's operation of the State's government efficiency "Get Lean" telephone hotline. The department will be able to refer comments received over the hotline to the state agency with substantive expertise in order to evaluate the suggestions.

This bill would be effective upon becoming a law.

The bill has one amendment that is traveling with it. (See Section VI. of this Bill Analysis, the Amendments section)

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Abandoned Property

Chapter 717, F.S., assigns responsibility to the Comptroller to identify and process abandoned or unclaimed property. It authorizes the Department of Banking and Finance (DBF) to contract with private parties to locate and deliver abandoned or unclaimed property to the possession of the state if the property has been abandoned for one year.

The costs owed to the contractors under these recovery agreements are paid out of the department's budget, and are based on the amount of property remitted to the state. However, the process to declare property as abandoned can be lengthy, and extend across budget planning cycles. Thus, accurate budget planning for payments under the recovery contracts can be difficult. In a similar process involving collection of money or property under s. 17.20, F.S., the DBF allows the collectors to "net" the recovery amount by deducting their costs from the amount collected before remittance, or to bill and collect its fee from the debtor.

Administration of Investigations

The Comptroller is obligated to perform a variety of consumer protection and enforcement duties, often resulting in formal investigations and prosecutions. Because of re-organization in the DBF, the responsibility for these activities has shifted, and now rests in the Division of Financial Investigations. Under present law, if fines or investigation costs are recovered by the division, they are deposited into the Division of Finance's Regulatory Trust Fund, rather than in the Financial Investigation Trust Fund, under which the Division of Financial Investigation operates. This results in unnecessary overhead at the agency to properly allocate resources.

"Get Lean" Hotline Administration

Under, s. 17.325, F.S., 1996 Supp., the Comptroller is responsible for monitoring the "Get Lean" hotline, a service established by the Legislature to receive public comment on ways to decrease the cost of the state government and eliminate wasteful spending. Many "Get Lean" suggestions involve multi-agency functions, or functions outside of the jurisdiction of the DBF. According to the DBF, it is without expertise or capacity to assess many of the suggestions on the merits. Yet, the DBF is statutorily charged with performing a preliminary assessment.

B. EFFECT OF PROPOSED CHANGES:

Abandoned Property

Private contractors who locate and recover abandoned property should receive payment for their expenses and costs much earlier as a result of this bill, by having their fees and expenses deducted from the unclaimed property recovered or collected under the contract prior to delivery to the state. The DBF will no longer be required to budget for these payments from trust funds, or incur the overhead associated with these payments in its budgeting process.

Administration of Investigations

To the extent that the department is able to recover costs of its investigations and prosecutions through judgements and fines, these funds will be allocated through the appropriate division within the DBF.

“Get Lean” Hotline Administration

Consumer suggestions for government improvement will be evaluated by the affected agency under this bill. The DBF will avoid comment on areas beyond its expertise, and those agencies with substantive expertise will be required to respond as necessary. Monetary awards to the consumer that originated the suggestion should be processed and received faster.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Agencies not presently responsible for evaluating “Get Lean” comments will have new responsibilities to do so--a shift away from the DBF. However, there should a dispersion, and not an increase in the general responsibilities of administration and workload relating to the hotline.

(3) any entitlement to a government service or benefit?

No.

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b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

Not applicable

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates subsection (3) in s. 17.20, F.S., to authorize the department to allow contractors who locate and recover abandoned property to receive payment for their costs much earlier by deducting their fees and expenses from the unclaimed property recovered or collected under the contract.

Section 2. Amends section 17.325, F.S., subsections (1), (2), and (3). Subsection (1) is amended, with regard to a comment received over the "Get Lean" telephone hotline, to require the agency with substantive expertise, if not the Comptroller, to be responsible for the monthly reporting of its evaluations to the House and Senate Appropriations Committees.

- subsection (2) is amended to require that advertisements of the "Get Lean" telephone number be advertised in unspecified "newspapers" rather than "each newspaper" of general circulation.
- subsection (3) is amended to:
 - give the Comptroller discretion in determining whether calls received on the "Get Lean" telephone line actually pertain to the purpose of the "Get Lean" program;
 - provide that the caller who makes a "Get Lean" telephone call may remain anonymous and even if he or she provides their name, the name will be confidential;
 - require the affected agency, rather than the Department of Administration--which no longer exists--or the State University System, to administer the state awards program for "Get Lean" telephone calls from state employees; and
 - require the affected agency, rather than the Comptroller, to conduct a preliminary determination of the expected savings if the "Get Lean" suggestion is implemented. This preliminary determination is to be submitted to the Comptroller.

Section 3. Amends subsection (3) of s. 687.143, F.S., to require that fines collected in the course of investigations of loan brokers be deposited into the Division of Financial Investigations Trust Fund rather than into the Division of Finance's Regulatory Trust Fund.

Section 4. Amends subsection (1) of s. 939.01, F.S., to authorize the recovery of all costs incurred in the course of investigations by the Division of Financial Investigations in judgements imposed along with criminal convictions.

Section 5. Provides that the act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Pertaining to abandoned property, the DBF process and source for payment of authorized fees and expenses to recovery contractors will change. However, the DBF expects the net result to the Abandoned Property Trust Fund will be zero. The payments to contractors will no longer be budgeted in the agency budget, resulting in a reduction in expenditures of approximately \$4.9 million. However, income to the Abandoned Property Trust Fund will be reduced in a like amount, as contractors deduct their costs and fees prior to remittance.

Pertaining to operation of the hotline, agencies that inherit responsibility to evaluate suggestions may incur costs of an indeterminate amount in evaluating the degree to which suggestions will yield productivity improvements or cost reductions. However, these costs are likely exceeded by the costs avoided by removing these evaluations from DBF staff who do not have adequate background in the issues raised. As the appropriate agencies review the suggestions, the prospects for productivity improvements and cost reductions to the state should increase.

Pertaining to investigative costs, revenues to the state are not quantifiable, and are likely to be minimal. The primary factor is the capacity of a person or commercial concern to pay the costs after imposition of a judgement or administrative fine. However, because judgements may be enforced for up to 20 years, revenues may be recovered from ongoing concerns in later years.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See section III A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Those persons successfully prosecuted by the DBF will incur costs for the expenses associated with the division's investigation.

2. Direct Private Sector Benefits:

Contractors for recovery of abandoned property will receive payment in a more timely and cost-effective manner.

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

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 4, 1997, the Financial Services Committee approved the bill with one amendment that is traveling with it. The amendment requires the Department of Banking and Finance to issue an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives which details the total amount of fees paid to contractors who recover unclaimed property and who, pursuant to the bill, deduct their expenses and costs from the recovered property prior to delivery to the state.

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

E. LEON JACOBS, JR.

STEPHEN HOGGE