

By Senators Horne, Bronson, McKay, Klein and Dyer

6-387-99

See HB

1 A bill to be entitled
2 An act relating to state financial matters;
3 amending s. 17.05, F.S.; specifying certain
4 powers of the Comptroller and the Department of
5 Banking and Finance; providing requirements;
6 specifying procedures, rights, and requirements
7 for enforcing compliance with certain
8 subpoenas; providing for assessing certain
9 costs under certain circumstances; amending s.
10 17.076, F.S.; providing for payment of
11 retirement benefits by direct deposit; amending
12 s. 20.12, F.S.; specifying purposes and duties
13 of the Comptroller; deleting divisions of the
14 department; amending s. 110.1165, F.S.;
15 deleting a reference for purposes of specifying
16 a statute of limitations for certain purposes;
17 specifying a time limit for filing actions to
18 recover certain compensation; providing
19 application; amending s. 112.061, F.S.;
20 providing for designees of agency heads to
21 perform specified functions; relating to per
22 diem and travel expenses; amending s. 215.422,
23 F.S.; deleting certain requirements relating to
24 vendors and state purchasing agreements and
25 warrants; amending s. 216.011, F.S.; revising a
26 definition; amending s. 216.102, F.S.; revising
27 duties of the Comptroller relating to preparing
28 and publishing certain financial information;
29 amending s. 273.02, F.S.; revising a
30 definition; amending s. 287.058, F.S.;
31 specifying as public records certain documents

1 and materials relating to contracts for
2 services; specifying an additional requirement
3 for certain written agreements for procurement
4 of contractual services by the state; providing
5 an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 17.05, Florida Statutes, is amended
10 to read:

11 17.05 Subpoenas; sworn statements; enforcement
12 proceedings ~~May examine under oath parties and persons privy~~
13 ~~to accounts.--~~

14 (1) The Comptroller of this state may demand and
15 require full answers on oath from any and every person, party
16 or privy to any account, claim, or demand against or by the
17 state, such as it may be the Comptroller's ~~his or her~~ official
18 duty to examine into, and which answers the Comptroller may
19 require to be in writing and to be sworn to before the
20 Comptroller or the department ~~himself or herself~~ or before any
21 judicial officer or clerk of any court of the state so as to
22 enable the ~~such~~ Comptroller to determine ~~decide as to~~ the
23 justice or legality of such account, claim, or demand.

24 (2) In exercising authority under this chapter, the
25 Comptroller or his or her designee may:

26 (a) Issue subpoenas, administer oaths, and examine
27 witnesses.

28 (b) Require or permit a person to file a statement in
29 writing, under oath or otherwise as the Comptroller or his or
30 her designee requires, as to all the facts and circumstances
31

1 concerning the matter to be audited, examined, or
2 investigated.

3 (3) Subpoenas shall be issued by the Comptroller or
4 his or her designee under seal commanding such witnesses to
5 appear before the Comptroller or the Comptroller's
6 representative or the department at a specified time and place
7 and to bring books, records, and documents as specified or to
8 submit books, records, and documents for inspection. Such
9 subpoenas may be served by an authorized representative of the
10 Comptroller or the department.

11 (4) In the event of noncompliance with a subpoena
12 issued pursuant to this section, the Comptroller or the
13 department may petition the circuit court of the county in
14 which the person subpoenaed resides or has his or her
15 principal place of business for an order requiring the
16 subpoenaed person to appear and testify and to produce books,
17 records, and documents as specified in the subpoena. The
18 court may grant legal, equitable, or injunctive relief,
19 including, but not limited to, issuance of a writ of ne exeat
20 or the restraint by injunction or appointment of a receiver of
21 any transfer, pledge, assignment, or other disposition of such
22 person's assets or any concealment, alteration, destruction,
23 or other disposition of subpoenaed books, records, or
24 documents, as the court deems appropriate, until such person
25 has fully complied with such subpoena and the Comptroller or
26 the department has completed the audit, examination, or
27 investigation. The Comptroller or the department is entitled
28 to the summary procedure provided in s. 51.011 and the court
29 shall advance the cause on its calendar. Costs incurred by
30 the Comptroller or the department to obtain an order granting,
31 in whole or in part, such petition for enforcement of a

1 subpoena shall be charged against the subpoenaed person, and
2 failure to comply with such order shall be a contempt of
3 court.

4 Section 2. Subsection (8) is added to section 17.076,
5 Florida Statutes, to read:

6 17.076 Direct deposit of funds.--

7 (8) Effective July 1, 2000, all new recipients of
8 retirement benefits from this state shall be paid by direct
9 deposit of funds. A retiree may request from the department an
10 exemption from the provisions of this subsection when such
11 retiree can demonstrate a hardship. The department may pay
12 retirement benefits by state warrant when deemed
13 administratively necessary.

14 Section 3. Section 20.12, Florida Statutes, is amended
15 to read:

16 20.12 Department of Banking and Finance.--There is
17 created a Department of Banking and Finance.

18 (1) The head of the Department of Banking and Finance
19 is the Comptroller.

20 (2) As provided in s. 4(d), Art. IV of the State
21 Constitution, the purpose of the Comptroller is to serve as
22 the chief fiscal officer of the state, and shall settle and
23 approve accounts against the state.

24 (3) The Comptroller shall execute the programs and
25 policies as adopted by the Legislature.~~The Division of~~
26 ~~Financial Investigations is following divisions are~~
27 established within the Department of Banking and Finance+

28 ~~(a) Division of Accounting and Auditing.~~

29 ~~(b) Division of Administration.~~

30 ~~(c) Division of Banking.~~

31 ~~(d) Division of Finance.~~

1 ~~(e) Division of Information Systems.~~

2 ~~(f) Division of Securities and Investor Protection.~~

3 ~~(g) Division of Financial Investigations.~~

4 Section 4. Subsection (1) of section 110.1165, Florida
5 Statutes, is amended, and subsection (3) is added to said
6 section, to read:

7 110.1165 Executive branch personnel errors.--

8 (1) An agency of the executive branch, including the
9 State University System, shall establish procedures for the
10 receipt, consideration, and disposition of a claim regarding
11 pay or benefits brought by an employee when that employee is
12 damaged as a result of being provided with erroneous written
13 information by the employing agency regarding his or her pay
14 or benefits, and the employee detrimentally relies upon such
15 written information. In order to qualify for the relief
16 provided by this section, the employee's reliance on the
17 representation must have been reasonable and based only upon
18 the written representations made by those persons authorized
19 by the agency head to make such representations. Furthermore,
20 the erroneous calculation and payment of an employee's salary,
21 wages, or benefits is not among the written representations
22 which will trigger relief under this section. ~~Section 95.11(4)~~
23 ~~is the statute of limitations for filing any action to recover~~
24 ~~salary, wages, overtime, benefits, or related damages by or on~~
25 ~~behalf of a state employee, or any action under this section.~~
26 ~~No distinctions between the terms "salary" and "wages" in~~
27 ~~construing the provisions of s. 95.11(4) apply to this section~~
28 ~~or the statute of limitations for filing any action under this~~
29 ~~section.~~

30 (3) The time limit to file any action to recover
31 compensation, including, but not limited to, salaries, wages,

1 overtime pay, fringe benefits, or damages or penalties
2 relating to errors in such compensation from, by, or on behalf
3 of a state officer or employee is 2 years from the date of the
4 alleged error in payment of such compensation. The time limit
5 applies in all disputes over compensation for work performed
6 by state officers or employees, and is not confined to cases
7 arising under subsections (1) and (2).

8 Section 5. Paragraphs (d) and (f) of subsection (3),
9 paragraph (b) of subsection (4), paragraphs (a), (d), and (f)
10 of subsection (7), and subsections (12) and (13) of section
11 112.061, Florida Statutes, 1998 Supplement, are amended to
12 read:

13 112.061 Per diem and travel expenses of public
14 officers, employees, and authorized persons.--

15 (3) AUTHORITY TO INCUR TRAVEL EXPENSES.--

16 (d) Travel expenses of public employees for the sole
17 purpose of taking merit system or other job placement
18 examinations, written or oral, shall not be allowed under any
19 circumstances, except that upon prior written approval of the
20 agency head or his or her designee, candidates for executive
21 or professional positions may be allowed travel expenses
22 pursuant to this section.

23 (f) A traveler who becomes sick or injured while away
24 from his or her official headquarters and is therefore unable
25 to perform the official business of the agency may continue to
26 receive subsistence as provided in subsection (6) during this
27 period of illness or injury until such time as he or she is
28 able to perform the official business of the agency or returns
29 to his or her official headquarters, whichever is earlier.
30 Such subsistence may be paid when approved by the agency head
31 or his or her designee.

1 (4) OFFICIAL HEADQUARTERS.--The official headquarters
2 of an officer or employee assigned to an office shall be the
3 city or town in which the office is located except that:

4 (b) When any state employee is stationed in any city
5 or town for a period of over 30 continuous workdays, such city
6 or town shall be deemed to be the employee's official
7 headquarters, and he or she shall not be allowed per diem or
8 subsistence, as provided in this section, after the said
9 period of 30 continuous workdays has elapsed, unless this
10 period of time is extended by the express approval of the
11 agency head or his or her designee.

12 (7) TRANSPORTATION.--

13 (a) All travel must be by a usually traveled route.
14 In case a person travels by an indirect route for his or her
15 own convenience, any extra costs shall be borne by the
16 traveler; and reimbursement for expenses shall be based only
17 on such charges as would have been incurred by a usually
18 traveled route. The agency head or his or her designee shall
19 designate the most economical method of travel for each trip,
20 keeping in mind the following conditions:

21 1. The nature of the business.

22 2. The most efficient and economical means of travel
23 (considering time of the traveler, impact on the productivity
24 of the traveler, cost of transportation, and per diem or
25 subsistence required). When it is more efficient and
26 economical to either the traveler or the agency head, jet
27 service offered by any airline, whether on state contract or
28 not, may be used when the cost is within an approved threshold
29 determined by the agency head or his or her designee.

30 3. The number of persons making the trip and the
31 amount of equipment or material to be transported.

1 (d)1. The use of privately owned vehicles for official
2 travel in lieu of publicly owned vehicles or common carriers
3 may be authorized by the agency head or his or her designee.
4 Whenever travel is by privately owned vehicle, the traveler
5 shall be entitled to a mileage allowance at a fixed rate of 25
6 cents per mile for state fiscal year 1994-1995 and 29 cents
7 per mile thereafter or the common carrier fare for such
8 travel, as determined by the agency head. Reimbursement for
9 expenditures related to the operation, maintenance, and
10 ownership of a vehicle shall not be allowed when privately
11 owned vehicles are used on public business and reimbursement
12 is made pursuant to this paragraph, except as provided in
13 subsection (8).

14 2. All mileage shall be shown from point of origin to
15 point of destination and, when possible, shall be computed on
16 the basis of the current map of the Department of
17 Transportation. Vicinity mileage necessary for the conduct of
18 official business is allowable but must be shown as a separate
19 item on the expense voucher.

20 (f) The agency head or his or her designee may grant
21 monthly allowances in fixed amounts for use of privately owned
22 automobiles on official business in lieu of the mileage rate
23 provided in paragraph (d). Allowances granted pursuant to
24 this paragraph shall be reasonable, taking into account the
25 customary use of the automobile, the roads customarily
26 traveled, and whether any of the expenses incident to the
27 operation, maintenance, and ownership of the automobile are
28 paid from funds of the agency or other public funds. Such
29 allowance may be changed at any time, and shall be made on the
30 basis of a signed statement of the traveler, filed before the
31 allowance is granted or changed, and at least annually

1 thereafter. The statement shall show the places and distances
2 for an average typical month's travel on official business,
3 and the amount that would be allowed under the approved rate
4 per mile for the travel shown in the statement, if payment had
5 been made pursuant to paragraph (d).

6 (12) ADVANCEMENTS.--Notwithstanding any of the
7 foregoing restrictions and limitations, an agency head or his
8 or her designee may make, or authorize the making of, advances
9 to cover anticipated costs of travel to travelers. Such
10 advancements may include the costs of subsistence and travel
11 of any person transported in the care or custody of the
12 traveler in the performance of his or her duties.

13 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever
14 an agency requires an employee to incur either Class A or
15 Class B travel on emergency notice to the traveler, such
16 traveler may request the agency to pay his or her expenses for
17 meals and lodging directly to the vendor, and the agency may
18 pay the vendor the actual expenses for meals and lodging
19 during the travel period, limited to an amount not to exceed
20 that authorized pursuant to this section. In emergency
21 situations, the agency head or his or her designee may
22 authorize an increase in the amount paid for a specific meal,
23 provided that the total daily cost of meals does not exceed
24 the total amount authorized for meals each day. The agency
25 head or his or her designee may also grant prior approval for
26 a state agency to make direct payments of travel expenses in
27 other situations that result in cost savings to the state, and
28 such cost savings shall be documented in the voucher submitted
29 to the Comptroller for the direct payment of travel expenses.
30 The provisions of this subsection shall not be deemed to apply
31 to any legislator or to any employee of the Legislature.

1 Section 6. Subsections (5) and (9) of section 215.422,
2 Florida Statutes, are amended to read:

3 215.422 Warrants, vouchers, and invoices; processing
4 time limits; dispute resolution; agency or judicial branch
5 compliance.--

6 (5) All purchasing agreements between a state agency
7 or the judicial branch and a vendor, applicable to this
8 section, shall include a statement of the vendor's rights and
9 the state's responsibilities under this section. The vendor's
10 rights shall include being provided with the ~~name and~~
11 telephone number of the vendor ombudsman within the Department
12 of Banking and Finance, which information shall also be placed
13 on all agency or judicial branch purchase orders.

14 (9) Each agency and the judicial branch shall include
15 in the official position description of every officer or
16 employee who is responsible for the approval or processing of
17 vendors' invoices or distribution of warrants to vendors that
18 the requirements of this section are mandatory. ~~In addition,~~
19 ~~each employee shall be required to sign a statement at least~~
20 ~~annually that he or she has been provided a copy of this~~
21 ~~section and the rules promulgated by the Comptroller. The~~
22 ~~statement shall also acknowledge that the employee understands~~
23 ~~the approval and processing time limitations and the provision~~
24 ~~for automatic interest penalty payments. Each agency and the~~
25 ~~judicial branch shall certify its compliance with this~~
26 ~~subsection to the Comptroller on or before February 1 of each~~
27 ~~year.~~

28 Section 7. Paragraph (x) of subsection (1) of section
29 216.011, Florida Statutes, 1998 Supplement, is amended to
30 read:

31 216.011 Definitions.--

1 (1) For the purpose of fiscal affairs of the state,
2 appropriations acts, legislative budgets, and approved
3 budgets, each of the following terms has the meaning
4 indicated:

5 (x) "Operating capital outlay" means equipment,
6 fixtures, and other tangible personal property of a
7 nonconsumable and nonexpendable nature, the value or cost of
8 which is ~~\$1,000~~\$500 or more and the normal expected life of
9 which is 1 year or more, and hardback-covered bound books that
10 are circulated to students or the general public, the value or
11 cost of which is \$25 or more, and hardback-covered bound
12 books, the value or cost of which is ~~\$250~~\$100 or more.

13 Section 8. Subsection (2) of section 216.102, Florida
14 Statutes, is amended to read:

15 216.102 Recording and filing of financial information;
16 handling by Comptroller; penalty for noncompliance.--

17 (2) It shall be the duty of the Comptroller to:

18 (a) Prepare and furnish to the Auditor General ~~publish~~
19 annual financial statements for the State of Florida in
20 accordance with generally accepted accounting principles on or
21 before December 31 annually.

22 **(b) Prepare and publish a Comprehensive Annual**
23 **Financial Report for the State of Florida in accordance with**
24 **generally accepted accounting principles on or before February**
25 **28 each year.**

26 **(c)**~~(b)~~ Furnish the Governor, the President of the
27 Senate, and the Speaker of the House of Representatives with
28 copies of the Comprehensive Annual Financial Report ~~annual~~
29 ~~financial statements~~ prepared pursuant to paragraph (b)~~(a)~~.

1 ~~(d)~~~~(e)~~ Notify each agency and the judicial branch of
2 the data that is required to be recorded to enhance
3 accountability for tracking federal financial assistance.

4 ~~(e)~~~~(d)~~ Provide reports, as requested, to executive or
5 judicial branch entities, the President of the Senate, the
6 Speaker of the House of Representatives, and the members of
7 the Florida Congressional Delegation, detailing the federal
8 financial assistance received and disbursed by state agencies
9 and the judicial branch.

10 ~~(f)~~~~(e)~~ Consult with and elicit comments from the
11 Executive Office of the Governor on changes to the State
12 Automated Management Accounting Subsystem which clearly affect
13 the accounting of federal funds, so as to ensure consistency
14 of information entered into the Federal Aid Tracking System by
15 state executive and judicial branch entities. While efforts
16 shall be made to ensure the compatibility of the State
17 Automated Management Accounting Subsystem and the Federal Aid
18 Tracking System, any successive systems serving identical or
19 similar functions shall preserve such compatibility.

20 (g) The Comptroller may furnish and publish the
21 financial statements and the Comprehensive Annual Financial
22 Report pursuant to paragraphs (a), (b), and (c) in electronic
23 form.

24 Section 9. Section 273.02, Florida Statutes, is
25 amended to read:

26 273.02 Record and inventory of certain property.--The
27 word "property" as used in this section means equipment,
28 fixtures, and other tangible personal property of a
29 nonconsumable and nonexpendable nature, the value or cost of
30 which is \$1,000~~\$500~~ or more and the normal expected life of
31 which is 1 year or more, and hardback-covered bound books that

1 are circulated to students or the general public, the value or
2 cost of which is \$25 or more, and hardback-covered bound
3 books, the value or cost of which is \$25~~\$100~~ or more. Each
4 item of property which it is practicable to identify by
5 marking shall be marked in the manner required by the Auditor
6 General. Each custodian shall maintain an adequate record of
7 property in his or her custody, which record shall contain
8 such information as shall be required by the Auditor General.
9 Once each year, on July 1 or as soon thereafter as is
10 practicable, and whenever there is a change of custodian, each
11 custodian shall take an inventory of property in his or her
12 custody. The inventory shall be compared with the property
13 record, and all discrepancies shall be traced and reconciled.
14 All publicly supported libraries shall be exempt from marking
15 hardback-covered bound books, as required by this section.
16 The catalog and inventory control records maintained by each
17 publicly supported library shall constitute the property
18 record of hardback-covered bound books with a value or cost of
19 \$25 or more included in each publicly supported library
20 collection and shall serve as a perpetual inventory in lieu of
21 an annual physical inventory. All books identified by these
22 records as missing shall be traced and reconciled, and the
23 library inventory shall be adjusted accordingly.

24 Section 10. Paragraph (c) of subsection (1) of section
25 287.058, Florida Statutes, 1998 Supplement, is amended to
26 read:

27 287.058 Contract document.--

28 (1) Every procurement of contractual services in
29 excess of the threshold amount provided in s. 287.017 for
30 CATEGORY TWO, except for the providing of health and mental
31 health services or drugs in the examination, diagnosis, or

1 treatment of sick or injured state employees or the providing
2 of other benefits as required by the provisions of chapter
3 440, shall be evidenced by a written agreement embodying all
4 provisions and conditions of the procurement of such services,
5 which provisions and conditions shall, where applicable,
6 include, but shall not be limited to:

7 (c) A provision allowing unilateral cancellation by
8 the agency for refusal by the contractor to allow public
9 access to all documents, papers, letters, or other material
10 subject to the provisions of chapter 119 and made or received
11 by the contractor in conjunction with the contract. All
12 documents, papers, letters, or other material made or received
13 by any contractor, subcontractor, or any other person in
14 connection with any contract for services in excess of the
15 threshold amount for CATEGORY TWO, are public records and
16 subject to the provisions of chapter 119, irrespective of
17 whether the documents, papers, letters, or other material are
18 in the possession of a contractor, subcontractor, any other
19 person, or the public agency. Every written agreement, in
20 excess of the threshold amount for CATEGORY TWO, between a
21 contractor and subcontractor, or between a subcontractor and
22 other parties performing services relating to the contract,
23 shall also contain a provision allowing unilateral
24 cancellation for refusal to allow public access to all
25 documents, papers, letters, or other material made or received
26 in connection with the contract.

27
28 In lieu of a written agreement, the department may authorize
29 the use of a purchase order for classes of contractual
30 services, provided the provisions of paragraphs (a)-(f) are
31 included in the purchase order, invitation to bid, or request

1 for proposals. The purchase order shall include an adequate
2 description of the services, the contract period, and the
3 method of payment. In lieu of printing the provisions of
4 paragraphs (a)-(f) in the contract document or purchase order,
5 agencies may incorporate the requirements of paragraphs
6 (a)-(f) by reference.

7 Section 11. This act shall take effect October 1,
8 1999.

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11 HOUSE SUMMARY

12 Provides for payment of retirement benefits by direct
13 deposit. Specifies purposes and duties of the Comptroller
14 and deletes provisions creating divisions of the
15 Department of Banking and Finance. Specifies a time limit
16 for filing actions to recover compensation by executive
17 branch personnel. Provides for designees of agency heads
18 to perform specified functions relating to per diem and
19 travel expenses. Revises duties of the Comptroller
20 relating to preparing and publishing required financial
21 information. Declares contracts for services above a
22 threshold amount as public records. Requires written
23 agreements for procurement of contractual services by the
24 state to contain a provision for unilateral cancellation
25 if the public is denied access to public information. See
26 bill for details.
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