

STORAGE NAME: h1707.gg

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 1707 (PCB GO 99-01)

RELATING TO: Department of Management Services

SPONSOR(S): Committee on Governmental Operations, Representative Posey and others

COMPANION BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

This bill updates organizational structure changes to the Department of Management Services resulting from the implementation of Performance-Based Program Budgeting; and makes technical changes to several state employment service programs overseen by the agency.

This bill clarifies and corrects cross references where necessary; increases the cap on meritorious service awards; deletes a requirement for certain reports; recognizes the service of volunteers and provides a limitation on volunteer awards; provides for a uniform appraisal system for employees and positions in the selected exempt service; exempts certain leases from the competitive bidding process; revises the threshold for leased space facility requirements; provides for the disbursement of moneys received from disposition of state-owned tangible personal property; increases purchasing category threshold amounts; requires a report on break-even mileage to be submitted biennially to agency inspectors general; requires a report from agency heads on employee use of state motor vehicles; and provides criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; permitting recovery of training fees from employees; permitting each department to designate an additional Senior Management Services position; delegating to employing agencies the authority to administer pay additives and adding "critical market pay" to the list of pay additives; permitting subsistence payment when injury or illness prevents a traveler from performance of official duties; increasing tangible personal property threshold requirements; allowing private, non profit elementary and secondary school to use the state Suncom Network; adding the state fire marshal to the list of entities not required to transfer ownership, custody, and controls of certain properties to DMS; providing requirements for computation of certain attorney's fees; repeals performance audits of Senior Management and Select Exempt Services.

There may be limited fiscal savings and minimal increased costs associated with the enactment of this bill.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Department of Management Services (DMS) was created in 1991 as part of a general government reorganization. It is the successor agency to the previously separate Departments of Administration and General Services. In its current capacity, DMS provides overall administrative guidance in state agency personnel, telecommunications, and infrastructure services. The Florida Retirement System, The Division of Administrative Hearings, and The Division of State Group Insurance are administered under the umbrella of DMS, however, actual operational authority is conferred upon these separate autonomous divisions in these jurisdictional areas.

DMS was one of the first agencies to be affected by the advent of Performance-Based Program Budgeting enacted by the Legislature in 1994. In the reformatting of its delivery structure, the agency has replaced many of its previous line divisions with programs. All DMS-managed services fall under one of these distinct program categories: Workforce, Support, Technology, and Facilities.

B. EFFECT OF PROPOSED CHANGES:

- Section 1. Amends s. 20.055, F.S., adding a requirement that each state agency's head, by December 31, 2000, conduct a review of motor vehicle utilization with oversight from the agency's inspector general; providing that the review shall consist of two parts: determining the number of miles that each assigned motor vehicle has been driven on official state business in the past fiscal year, excluding commuting mileage, for the purpose of determining whether employees with assigned motor vehicles are driving vehicles a sufficient number of miles to warrant continued vehicle assignment; identifying employees who have driven personal vehicles extensively on state business during the past fiscal year for the purpose of determining whether it would be cost-effective to provide state motor vehicles to such employees; requiring the inspector general to use break-even mileage developed by DMS; and requiring that a copy of the review be furnished to the Office of Program Policy Analysis and Government Accountability.
- Section 2. Amends s. 20.22, F.S., to retitle the DMS Office of Labor Relations as the Chief Labor Negotiator.
- Section 3. Amends s. 110.109, F.S., providing for the monitoring of agency personnel activities rather than conducting personnel audits; and deleting separate statutory authorization requiring a departmental personnel audit of state agencies to be transmitted to the Governor, Presiding Legislative Branch Officers, and the Auditor General.
- Section 4. Amends s. 110.1099, F.S., permitting an agency or the judicial branch, by agreement entered into with the employee, to recover training fees in excess of \$1,000 from employees who voluntarily terminate employment within four years of the conclusion of the training. An exception is provided when the training is required by the agency or judicial branch.
- Section 5. Amends s. 110.112, F.S., repealing a separate statutory requirement for an annual affirmative action report. This requirement will continue as a part of the agency's annual workforce report. Eliminates the requirement that the department submit certain post audit reports to the Governor, Senate President, House Speaker, and Auditor General.
- Section 6. Amends s. 110.1245, F.S., to change the report submission deadline for meritorious service awards from April 1 of each year to annually and to raise the maximum dollar amount of the award threshold from \$75 to \$100 for recognition awards, from \$50 to \$100 for recognition of retiring state employees and board or commission members whose terms are expiring, and from \$10 to \$50 for pins and certificates.

- Section 7. Amends s. 110.131, F.S., providing that the agency head or his or her designee may extend the OPS employment of a health care practitioner.
- Section 8. Amends s. 110.181, F.S., providing that the costs to coordinate the annual Florida State Employees' Charitable Campaign shall not be reimbursed to the DMS if such costs are otherwise appropriated by the Legislature.
- Section 9. Amends s. 110.201, F.S., requiring DMS to publish and distribute an annual workforce report with regard to the state's human resources; providing that each agency shall adopt rules prescribing penalties or ranges of penalties for various types of misconduct within the agency; and providing that copies of the rules prescribing penalties must be given to the agency's career service employees.
- Section 10. Amends s. 110.205, F.S., permitting each department to designate an additional position in the Senior Management Service (SMS) provided the position reports directly to the agency head or to a position in SMS and provided that any additional costs are absorbed within the existing budget of that department.
- Section 11. Amends s. 110.209, F.S., delegating to employing agencies, where appropriate, the authority to administer pay additives; and adding "critical market pay" to the list of pay additives.
- Section 12. Amends s. 110.235, F.S., deleting an annual report submission on state agency personnel training activities which have not been provided by DMS. A requirement remains for each employing agency to annually evaluate and report to the department the training it has implemented and the progress it has made in the area of training. This information is available upon request.
- Section 13. Amends s. 110.503, F.S., providing a \$100 maximum expenditure cap for personnel recognition awards involving volunteers.
- Section 14. Amends s. 110.504, F.S., to provide the same \$100 maximum expenditure cap relating to volunteer benefits.
- Section 15. Amends s. 110.605, F.S., providing that DMS shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement; and providing that for all other employees and positions in the Selected Exempt System, agencies shall develop appraisal systems that shall take into consideration individual and organizational efficiency, productivity, and effectiveness.
- Section 16. Amends s. 112.061, F.S., permitting the designee of an agency head to approve subsistence payments when injury or illness prevents a traveler from the performance of official duties.
- Section 17. Amends s. 215.196, F.S., replacing "Division of Building Construction" with "facilities development activities of the DMS".
- Section 18. Amends s. 215.422, F.S., deleting a requirement that each employee responsible for the processing of vendor payments annually sign a statement indicating personal acknowledgment of the interest penalty sanctions for failure to timely process such invoices. Additionally, the identification of the name of the vendor ombudsman in the Department of Banking and Finance is deleted; the office and its telephone number remains.
- Section 19. Amends s. 216.011, F.S., increasing from \$500 to \$1,000 and from \$100 to \$250, respectively, the threshold for tangible, nonconsumable personal property and books which are defined as *operating capital outlay* under definitions provided in the state budgeting system.
- Sections 20, 21, and 22. Amend ss. 255.249, 255.25, and 255.257, F.S.,

respectively, to increase from 3,000 to 5,000 square feet the threshold beyond which DMS shall review state agency leases, obtain prior approval, or require the submission of data on energy consumption and cost.

- Sections 23, 24, and 25. Amend ss. 267.075, 272.18, and 272.185, F.S., providing nomenclature changes for the Grove Advisory Council, the Governor's Mansion Commission, and maintenance of the Governor's mansion. Existing law in s. 272.185, F.S., requiring the Governor's Mansion budget to be submitted by DMS is deleted.
- Section 26. Amends s. 273.02, F.S., increasing from \$500 to \$1,000 for tangible personal property, and from \$100 to \$250, in the case of books, a threshold requirement that such items valued at or above these levels be tagged, recorded in the property records, and be subject to inventory.
- Section 27. Amends s. 273.055, F.S., providing that all moneys received from the sale of state-owned tangible personal property shall be retained for the acquisition of exchange and surplus property and all necessary operating expenses rather than being deposited in the General Revenue Fund.
- Sections 28, 29, 30, 31, 32, 33, and 34. Amend ss. 281.02, 281.03, 281.04, 281.05, 281.06, 281.07 and 281.08, F.S., respectively, providing nomenclature changes for the Florida Capitol Police.
- Section 35. Amends s. 282.105, F.S., Allowing private, nonprofit elementary and secondary schools to use the state Suncom Network and to be eligible for rates and services on the same basis as public schools, providing these nonpublic schools do not have an endowment in excess of \$50 million.
- Section 36. Amends s. 282.111, F.S., providing nomenclature changes relating to the statewide system of regional law enforcement communications.
- Section 37. Amends s. 287.017, F.S., increasing purchasing category thresholds for categories one through five.
- Section 38. Amends s. 287.042, F.S., providing for development of procedures for releasing of requests for proposals, invitations to bid, and other competitive acquisitions which procedures shall include, but are not limited to, notice by publication in the Florida Administrative Weekly, on Government Services Direct, or by mail at least ten days before the date set for submittal of proposals or bids; and providing for consultation regarding the development of bid distribution procedures to ensure that maximum distribution is afforded to certified minority business enterprises.
- Section 39. Amends s. 287.057, F.S., providing nomenclature changes relating to performance budgeting changes for procurement of commodities or contractual services.
- Section 40. Amends s. 287.151, F.S., relating to the purchase or lease of subcompact class vehicles; and deleting the exception from the subcompact vehicle requirement for law enforcement purposes as it currently applies to state attorneys and public defenders.
- Section 41. Amends s. 287.16, F.S., adding the state fire marshal to the list of entities not required to transfer ownership, custody, and control of aircraft, motor vehicles, and associated facilities to DMS; providing nomenclature changes to coincide with performance-based program budgeting changes; requiring the Support Program to calculate biennially the break-even mileage at which it becomes cost-effective for the state to provide assigned motor vehicles to employees; and providing that the Support Program shall provide this information to agency heads and inspectors general to assist them in meeting their reporting requirements.
- Section 42. Amends s. 287.17, F.S., relating to limitation on use of motor vehicles and aircraft; generally clarifying the section; providing that an agency head, as defined in s.

287.012, shall comply with the following criteria for the special assignment of motor vehicles: providing that an agency head may assign a motor vehicle to a state officer or employee only if the officer or employee is projected to drive the motor vehicle a minimum of 10,000 miles annually on official state business, unless an agency head annually provides written justification for the need of the assignment of a motor vehicle; providing that commuting mileage incidental to use of the motor vehicle on official state business shall be excluded from calculating the projected mileage; providing that priority in assigning motor vehicles shall be given to those employees who drive over 15,000 miles annually on state business; and providing that an agency head may assign motor vehicles to state officers and employees who perform duties related to law enforcement, however, the agency head shall not assign a pursuit motor vehicle to an officer or employee whose job duties do not routinely require performance of a patrol or law enforcement function requiring a pursuit vehicle.

Section 43. Amends s. 287.18, F.S., providing nomenclature changes relating to motor pool management and motor pool maintenance and repair, respectively.

Sections 44, 45, and 46. Amend ss. 365.171, 401.021, and 401.027, F.S., providing nomenclature changes relating to the emergency "911" telephone system, statewide telecommunications, and federal telecommunications financial assistance, respectively.

Section 47. Amends s. 446.604, F.S., substituting the term "Government Services Direct" in place of "Florida Communities Network" for the purposes of electronic posting of one-stop career employment centers.

Section 48. Amends s. 447.208, F.S., providing that the computation of attorney's fees in pending and future public sector labor law cases on demotions, suspensions, and dismissals shall be governed by the standard of reasonableness in comparison to an hourly rate charged for similar Career Service System appeals in the same geographic area.

Section 49. Repeals ss. 110.407 and 110.607, F.S., relating to a quadrennial requirement for performance audits of the Senior Management Service and the Select Exempt Service.

Section 50. Provides an effective date of upon becoming a law.

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?

Specific authority is granted to each executive agency to adopt rules prescribing penalties or ranges of penalties for various types of misconduct within the agency and copies of these rules prescribing penalties must be given to the agency's career service employees.

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

This bill reduces workload in certain instances where the requirement to submit certain reports is deleted. There should be a further reduction in workload where purchasing category thresholds and operating capital outlay thresholds have been

increased. Purchases under the category thresholds will not be required to be competitively bid and purchases under the operating capital outlay thresholds will not have to be tagged, recorded in the property records, and inventoried.

This bill does require agency heads, by December 31, 2000, to conduct a review of motor vehicle utilization and assignment of vehicles within their department. A recent study by the Office of Program Policy Analysis and Government Accountability (OPPAGA) determined there is a possibility of savings to the state as a result of this effort.

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

For any additional one position of any Executive Branch agency that is classified Senior Management Service (SMS), as allowed by this bill, there will be an increased employee benefit derived from this designation. However, any additional cost to the agency must be absorbed in the existing budget of that department. It may be possible for the affected entities to assume any costs within their existing budget authority since retirement contribution rates as a percentage of payroll are predicted to be reduced substantially.

- 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?

N/A

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

N/A

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

N/A

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?

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

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

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

- 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:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 20.055, 20.22, 110.109, 110.112, 110.1099, 110.1245, 110.131, 110.181, 110.201, 110.205, 110.209, 110.235, 110.503, 110.504, 110.605, 112.061, 215.196, 215.422, 216.011, 255.249, 255.25, 255.257, 255.503, 267.075, 272.18, 272.185, 273.02, 273.055, 281.07, 282.105, 282.111, 287.017, 287.042, 287.057, 287.151, 287.16, 287.17, 287.18, 365.171, 401.021, 401.027, 446.604, and 447.208, F.S. Repeals ss. 110.407 and 110.607, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Please refer to section-by-section analysis in Section II. B., Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

(See Fiscal Comments.)

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

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:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

There will be minimal cost savings to the DMS in the consolidation of the several separate reports repealed in this legislation. These cost avoidances will produce lower printing and distribution costs but will not have any appreciable effect on salaries and benefits.

This bill limits the expenditures for suitable framed certificates, plaques, or other tokens of recognition to honor, reward, recognize and encourage volunteers for their service to an amount not to exceed \$100 each. These amounts will be paid from funds otherwise appropriated to the agency and will not necessarily impose additional financial burdens. Similar authority is granted executive agencies to cap meritorious service awards at \$100 for certificates, plaques, pins, and other tokens of recognition for retiring state employees and any appointed member of a state board or commission whose service to the state has been satisfactory. Expenditures for recognition of state employees who have achieved increments of 5 years of satisfactory service are capped at \$50.

Raising the respective thresholds for inventory records of tangible personal property from \$500 to \$1,000 and for books from \$100 to \$250 will reduce workload requirements, however, the effect will vary with each agency and is difficult to estimate at this time.

The authority to allow each agency head to designate one additional position in the SMS is granted. Since the designation is discretionary with the agency, it is not possible to determine exactly how many individuals will, in fact, receive this status. However, any additional costs to the agency must be absorbed from the existing budget of each department. It may be possible for the affected agencies to assume these costs within their existing budget authority since it is anticipated that retirement contribution rates as a percentage of payroll will be reduced substantially.

Reducing the scale of the DMS review of state agency leases by increasing the threshold of review from 3,000 to 5,000 square feet should produce a workload reduction. The agency reports that it is unable to predict how its future actions will be affected by other state agency leasing practices which rise above or fall below this new review level. Similarly, increasing the threshold for purchasing categories below which items do not have to be competitively bid may produce a workload reduction.

This bill establishes a new standard for the computation of attorney's fees in career service cases. The direction of impact suggests a lower award per case, however, the precise effect is indeterminable at this time.

The requirements in this bill regarding the proper assignment and utilization of state vehicles could provide substantial savings to the state. OPPAGA has concluded that the state could save up to \$1.7 million (or \$290,000 annually) by providing vehicles to employees who drive more than 15,000 miles annually rather than reimbursing them at the 29 cents per mile rate. OPPAGA also concluded that for a two-year period, an additional \$110,000 could be saved annually by reassigning state-owned vehicles to these employees that are currently underutilized or inappropriately assigned. This estimate was based on the remaining life of the underutilized or inappropriately assigned vehicles.

OPPAGA found that many state-owned vehicles are assigned to employees who drive less than 10,000 miles per year for state business, excluding commuter miles. Some of these vehicles are being used largely for employee commuting rather than job duties. Additionally, law enforcement staff who do not perform patrol functions typically are provided fully equipped pursuit vehicles. It is estimated that the state could save up to several million dollars by reassigning low-mileage cars, recovering employee-commuting costs, and providing standard cars with portable emergency equipment to law enforcement staff who do not routinely respond to emergency situations.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Marsha Belcher

Cynthia P. Kelly