

STORAGE NAME: h2261.ga

DATE: April 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL APPROPRIATIONS
ANALYSIS**

BILL #: HB 2261

RELATING TO: Lawsuits Involving the Executive Branch

SPONSOR(S): General Appropriations & Representative Pruitt

COMPANION BILL(S):

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

(1) GENERAL APPROPRIATIONS YEAS 21 NAYS 0

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I. SUMMARY:

During the 1998-99 legislative interim, the General Appropriations Committee collected information from the various state agencies on outstanding litigation with the potential to affect the state budget. As a result of that project, several impediments to the timely flow of information on lawsuits involving state agencies were identified. This bill addresses several such issues:

- requires agencies proposing to settle lawsuits to specify how they will address costs within current appropriations.
- requires settlements that commit state spending to be contingent on legislative appropriation.
- requires money received by the state as a settlement to be deposited to the General Revenue Fund or the appropriate trust fund.
- requires an inventory of lawsuits to be submitted by agencies to the legislature twice a year in association with the budget process.
- requires the Division of Risk Management to provide more information to agencies it represents.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

See Summary.

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 45.062, F.S., governing settlements, conditions, or orders when an agency of the executive branch of government is a party, to meet additional requirements with respect to notification. It provides that described settlements or orders shall be contingent upon and subject to legislative appropriation or statutory amendment, allows state agencies or officers to agree to use all efforts to procure legislative funding or statutory amendment, directs funds to be deposited in the General Revenue Fund or in the appropriate agency fund, and states the intent of the Legislature with respect to potential settlements. It also amends s. 216.023, F.S., to direct the head of each state agency to include an inventory of all litigation in which the agency is involved that may require additional appropriations to the agency or amendments to the law under which the agency operates. Finally, it amends s. 284.385, F.S., to require the Division of Risk Management assigned counsel in a case involving a state agency of the executive branch to report regularly to the covered department in addition to the Department of Insurance. The assigned counsel must also notify the covered department if a claim shall be compromised or settled for monetary compensation.

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?

Yes. The bill states that any settlement that commits the state to spending in excess of current state law shall be contingent upon and subject to legislative appropriation or statutory amendment.

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

State agencies and officers must advise the appropriate legislative committees of potential settlements, which may commit the state to spending in excess of current appropriations or to policy changes inconsistent with current law, and of the progress thereon during the settlement process.

The head of each agency must include an inventory of all litigation in which the agency is involved that may require additional appropriations to the agency or amendments to the law under which the agency operates.

Assigned counsel must report regularly to the covered department in any suit involving a state agency of the executive branch, as well as provide them with prior notification when a claim is to be compromised or settled for monetary compensation.

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

No.

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?

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?

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?

N/A

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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 45.062, 216.023, and 284.385, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 45.062, F.S., to revise a provision of law governing settlements, conditions, or orders when an agency of the executive branch of government is a party to meet additional requirements with respect to notification. It provides that described settlements or orders shall be contingent upon and subject to legislative appropriation or statutory amendment, allows state agencies or officers to agree to use all efforts to procure legislative funding or statutory amendment, directs funds to be deposited in the General Revenue Fund or in the appropriate agency fund, and states the intent of the Legislature with respect to potential settlements.

Section 2. Amends s. 216.023, F.S., to direct the head of each state agency to include an inventory of all litigation in which the agency is involved that may require additional appropriations to the agency or amendments to the law under which the agency operates.

Section 3. Amends s. 284.385, F.S., to require Division of Risk Management assigned counsel in a case involving a state agency of the executive branch to report regularly to the covered department in addition to the Department of Insurance. The assigned counsel must also notify the covered department if a claim shall be compromised or settled for monetary compensation.

Section 4. Establishes an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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 spend funds or to take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON GENERAL APPROPRIATIONS:

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