

By Representatives Flanagan, Crow, Wallace, Bainter,  
Goode, Bitner and Turnbull

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.

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

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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  
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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)~~.

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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 \$250~~\$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.

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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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