

STORAGE NAME: h0895s1.go

DATE: March 30, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 895

RELATING TO: State Agencies/OPS/Health Insurance

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

COMPANION BILL(S): SB 1050 (identical)

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

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

I. SUMMARY:

House bill 895 adds a subsection to s. 110.131, F.S., which deals with other-personal-services (OPS) positions and persons working in OPS positions.

Currently, persons applying for OPS positions must, by statute, be provided **written materials** explaining the conditions (including limitations of benefits) related to their employment in this class. Employment in such OPS positions clearly provide limitations on such employment elements as the number of hours which may be worked in certain periods of time, and a lack of entitlement to such benefits as paid annual and sick leave, and Florida Retirement System retirement benefits.

This bill requires the Department of Management Services (DMS), in cooperation with legislative staff and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an in-depth study of all compensation package alternatives available to persons filling OPS positions

This bill further requires DMS to submit a preliminary report of its findings to the President of the Senate, and the Speaker of the House of Representatives, and the Minority Leaders of each body, by December 31, 1999.

The fiscal impact on state government would be insignificant.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Employees hired as OPS employees are generally limited to 1,040 working hours within any 12 month period. Extensions of the time of employment in such positions beyond the normal 1,040 hours (within an agency), may be made with the approval of the head of the agency or a designee, and in accordance with criteria established by the Department of Management Services (DMS).

According to the Department of Banking & Finance, the number of OPS workers varies greatly from month to month, but as of the end of February, 1999, there were approximately 46,380 workers in the OPS classification. The average number of such workers was approximately 43,900 per month for the year ended February 28, 1999.

Most OPS workers are found in the State University System (SUS), with over 37,100. Of that number, almost 25,000 are students. The remaining approximately 12,000 workers are in other classifications, or in mixed classifications.

In agencies such as Children and Family Services, many of the OPS workers are agency clients employed as part of their rehabilitation.

There are several exceptions to the hours-of-employment limitation, including exceptions for positions filled by:

board members;

consultants;

seasonal employees;

institutional clients employed as part of their rehabilitation;

bona fide, degree-seeking students in secondary or postsecondary educational programs;

employees of the Board of Regents, including employees of the State University System;

employees of the Board of Trustees of the Florida School for the Deaf and the Blind, and;

employees of the Division of Blind Services who are employed in the Library for the Blind and Physically Handicapped.

With respect to all but one of the classes of workers which are exempt from the hours-of-employment limitation, employment records must be maintained on OPS employees. The Board of Regents, pursuant to ch. 98-65, L.O.F., is now exempt from the record keeping and reporting requirements found in s. 110.131(6), F.S.

Applicants are required by law to be fully informed about employment conditions, rate(s) of pay, benefits, frequency and duration of OPS employment, along with the criteria for extensions of employment. State law specifically requires agencies to provide a written copy of such material (prepared by DMS), to each of its applicants for such OPS employment at the time of their interview, or actual employment, whichever occurs sooner.

There has been no special effort to establish, with any degree of certainty, the demography of workers in OPS positions, even though some information is provided to DMS, and/or is retained by employing agencies.

Moreover, while the state has engaged in a study into compensation and retirement options for career service employees, there has not been a similar review of possible OPS compensation, retirement, and benefit packages.

The current compensation package cost of OPS positions is certainly greater than just the Social Security Tax which is matched by the state on a dollar-for-dollar basis with the Social Security Tax withheld from OPS employees' pay. These hidden costs include, at minimum, OPS employee's pro rata share of Unemployment Compensation payments and Workers' Compensation payments made to OPS employees.

B. EFFECT OF PROPOSED CHANGES:

Section 1: Requires DMS, in cooperation with legislative staff and OPPAGA, to conduct an in-depth study of compensation package alternatives and options which may be made available to OPS employees.

Section 2: 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?

No.

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

Yes. This bill calls for an in-depth investigation which will include staff work in the named organizations, and other organizations which cooperate with the study.

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

No.

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

Not Applicable.

(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:

Not applicable.

(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:

Not applicable.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None.

E. SECTION-BY-SECTION ANALYSIS:

See IIB., EFFECT OF PROPOSED CHANGES.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unknown, but minimal.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

None.

2. Direct Private Sector Benefits:

None.

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:

This bill does not require counties or municipalities to spend 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 counties or municipalities 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:

"Study" proponents believe that developing as much information as possible relative to workers filling OPS positions, as well as the positions themselves, will arm the Legislature with the tools necessary to incorporate OPS compensation and benefits into an overall evaluation of state employee compensation and benefits.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its meeting on March 30, 1999, the Committee on Governmental Operations adopted a strike everything after the enacting clause amendment which requires DMS, in cooperation with legislative staff and OPPAGA, to conduct a comprehensive study considering all possible compensation options as they relate to OPS employees. The bill was reported favorably as a committee substitute..

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VII. SIGNATURES:

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