

By Senator Posey

24-1092-03

1                                   A bill to be entitled  
2           An act relating to municipal per diem and  
3           travel expenses; amending s. 166.021, F.S.;  
4           authorizing municipalities to provide for per  
5           diem and travel expenses of its officials,  
6           officers, employees, and authorized persons,  
7           notwithstanding s. 112.061, F.S.; providing for  
8           retroactive application; providing an effective  
9           date.

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11           WHEREAS, the Municipal Home Rule Powers Act, chapter  
12 166, Florida Statutes, provides that the governing body of  
13 each municipality has the power to enact legislation  
14 concerning any subject matter upon which the Legislature may  
15 act, and

16           WHEREAS, the Florida Attorney General, in AGO 1974-18,  
17 stated that municipalities, under the Municipal Home Rule  
18 Powers Act, have the home rule powers to enact per diem and  
19 travel allowances that vary from those specified in section  
20 112.061, Florida Statutes, and

21           WHEREAS, numerous municipalities in the state have  
22 relied on the grant of home rule powers and AGO 1974-18 to  
23 enact reasonable per diem and travel allowances as determined  
24 by the governing body of the municipality, and

25           WHEREAS, the Florida Attorney General, in AGO 2003-01,  
26 has essentially reversed the opinion set forth in AGO 1974-18  
27 and has now stated that section 112.061, Florida Statutes,  
28 applies to municipalities and controls the maximum rate of per  
29 diem and other allowances paid to officers, employees, or  
30 others authorized to act on behalf of the municipality, and

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1           WHEREAS, AGO 2003-01 clearly violates the intent of the  
2 Municipal Home Rule Powers Act, and places municipalities that  
3 have relied on AGO 1974-18 into the position of having to  
4 repeal their policies on reasonable per diem and travel  
5 allowances in order to comply with AGO 2003-01, NOW,  
6 THEREFORE,

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

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10           Section 1. Subsection (10) is added to section  
11 166.021, Florida Statutes, to read:

12           166.021 Powers.--

13           (10) Notwithstanding the provisions for per diem and  
14 travel expenses of public officers, employees, and authorized  
15 persons set forth in s. 112.061, the governing body of a  
16 municipality may provide for per diem and travel expenses of  
17 its officials, officers, employees, and authorized persons as  
18 the governing body determines is reasonable. Any policy on per  
19 diem and travel expenses provided by a municipality on January  
20 1, 2003, shall be valid and in effect for that municipality  
21 until otherwise amended. If the governing body of a  
22 municipality does not provide for per diem and travel  
23 expenses, the municipality shall adhere to the provisions of  
24 s. 112.061.

25           Section 2. This act shall take effect upon becoming a  
26 law and shall apply retroactively to January 1, 2003.

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29           SENATE SUMMARY

30           Authorizes the governing body of a municipality to  
31           provide for per diem and travel expenses of its  
          officials, officers, employees, and authorized persons  
          notwithstanding s. 112.06, F.S.