

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Anderson offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause, and insert:

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

166.021 Powers.--

(10)(a) As used in this subsection, the term:

1. "Authorized person" means a person:

a. Other than an officer or employee, as defined in this paragraph, whether elected or commissioned or neither elected nor commissioned, who is authorized by a municipality or agency of a municipality to incur travel expenses in the performance of official duties;

b. Who is called upon by a municipality or agency of a municipality to contribute time and services as a consultant or advisor; or

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28 c. Who is a candidate for an executive or professional  
29 position with a municipality or agency of a municipality.

30 2. "Employee" means an individual, whether commissioned or  
31 not, other than an officer or authorized person as defined in  
32 this paragraph, who is filling a regular or full-time authorized  
33 position and is responsible to a municipality or agency of a  
34 municipality.

35 3. "Officer" means an individual who, in the performance  
36 of his or her official duties, is vested by law with sovereign  
37 powers of government and who is either elected by the people or  
38 commissioned by the Governor and has jurisdiction extending  
39 throughout the municipality, or any person lawfully serving  
40 instead of either of the foregoing two classes of individuals as  
41 initial designee or successor.

42 4. "Traveler" means an officer, employee, or authorized  
43 person, when performing travel authorized by a municipality or  
44 agency of a municipality.

45 (b) Notwithstanding s. 112.061, the governing body of a  
46 municipality or an agency of a municipality may provide for a  
47 per diem and travel expense policy for its travelers that varies  
48 from the provisions of s. 112.061. Any such policy provided by a  
49 municipality or an agency of a municipality on January 1, 2003,  
50 shall be valid and in effect for that municipality or an agency  
51 thereof until otherwise amended. A municipality or agency of a  
52 municipality that provides any per diem and travel expense  
53 policy pursuant to this subsection is exempt from all provisions  
54 of s. 112.061. A municipality or agency of a municipality that  
55 does not provide a per diem and travel expense policy pursuant

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56 to this subsection remains subject to all provisions of s.  
57 112.061.

58 (c) Travel claims submitted by a traveler in a  
59 municipality or agency of a municipality that is exempted from  
60 the provisions of s. 112.061 pursuant to paragraph (b) shall not  
61 be required to be sworn to before a notary public or other  
62 officer authorized to administer oaths, but any claim authorized  
63 or required to be made under any per diem and travel expense  
64 policy of a municipality or agency of a municipality must  
65 contain a statement that the expenses were actually incurred by  
66 the traveler as necessary travel expenses in the performance of  
67 official duties and shall be verified by a written declaration  
68 that it is true and correct as to every material matter, and any  
69 person who willfully makes and subscribes any such claim that he  
70 or she does not believe to be true and correct as to every  
71 material matter, or who willfully aids or assists in, or  
72 procures, counsels, or advises the preparation or presentation  
73 of such a claim that is fraudulent or is false as to any  
74 material matter, whether or not such falsity or fraud is with  
75 the knowledge or consent of the person authorized or required to  
76 present such claim, commits a misdemeanor of the second degree,  
77 punishable as provided in s. 775.082 or s. 775.083. Whoever  
78 receives an allowance or reimbursement by means of a false claim  
79 is civilly liable in the amount of the overpayment for the  
80 reimbursement of the public fund from which the claim was paid.

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

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84 ===== T I T L E A M E N D M E N T =====

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85 Remove the entire title, and insert:

86 A bill to be entitled

87 An act relating to municipal per diem and travel expenses;  
88 amending s. 166.021, F.S.; providing definitions;  
89 authorizing municipalities and agencies of municipalities  
90 to adopt per diem and travel expense policies for  
91 travelers, notwithstanding s. 112.061, F.S.; providing for  
92 applicability of s. 112.061, F.S., if per diem and travel  
93 expense policies are or are not adopted; providing  
94 misdemeanor penalties for offenses related to false or  
95 fraudulent travel claims; providing for civil liability;  
96 providing for retroactive application; providing an  
97 effective date.

98  
99 WHEREAS, the Municipal Home Rule Powers Act, chapter 166,  
100 Florida Statutes, provides that the governing body of each  
101 municipality has the power to enact legislation concerning any  
102 subject matter upon which the Legislature may act, and

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

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

112 WHEREAS, the Florida Attorney General, in AGO 2003-01, has  
113 essentially reversed the opinion set forth in AGO 1974-18 and

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114 has now stated that section 112.061, Florida Statutes, applies  
115 to municipalities and controls the maximum rate of per diem and  
116 other allowances paid to officers, employees, or others  
117 authorized to act on behalf of a municipality, and

118 WHEREAS, AGO 2003-01 clearly violates the intent of the  
119 Municipal Home Rule Powers Act and places municipalities that  
120 have relied on AGO 1974-18 in the position of having to repeal  
121 their policies on reasonable per diem and travel allowances in  
122 order to comply with AGO 2003-01, NOW, THEREFORE,  
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