



HB 1493

2003

1 A bill to be entitled

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

8
9 WHEREAS, the Municipal Home Rule Powers Act, chapter 166,
10 Florida Statutes, provides that the governing body of each
11 municipality has the power to enact legislation concerning any
12 subject matter upon which the Legislature may act, and

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

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

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

28 WHEREAS, AGO 2003-01 clearly violates the intent of the
29 Municipal Home Rule Powers Act, and places municipalities that
30 have relied on AGO 1974-18 into the position of having to repeal



HB 1493

2003

31 their policies on reasonable per diem and travel allowances in
 32 order to comply with AGO 2003-01, NOW, THEREFORE,

33

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

35

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

38 166.021 Powers.--

39 (10) Notwithstanding the provisions for per diem and
 40 travel expenses of public officers, employees, and authorized
 41 persons set forth in s. 112.061, the governing body of a
 42 municipality may provide for per diem and travel expenses of its
 43 officials, officers, employees, and authorized persons as the
 44 governing body determines is reasonable. Any policy on per diem
 45 and travel expenses provided by a municipality on January 1,
 46 2003, shall be valid and in effect for that municipality until
 47 otherwise amended. If the governing body of a municipality does
 48 not provide for per diem and travel expenses, the municipality
 49 shall adhere to the provisions of s. 112.061.

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

52