



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security – The bill provides that no public officers or employees will be traveling to terrorist states.

### B. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Community College Program Fund

Section 1011.81, F.S., establishes the Community College Program Fund to provide funding for the basic operations of Florida's 28 community colleges.

##### State University Funding

Section 1011.90, F.S., establishes the primary funding for the basic operations for Florida's 11 state universities.

##### Per Diem and Travel Expenses

Section 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons.

"Agencies" are defined as any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.<sup>1</sup> A variety of conditions are placed on the travel that may be paid and what amounts may be paid.

"Officer or public officer" is defined as an individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the forgoing two classes of individuals as initial designee or successor.<sup>2</sup>

"Employee or public employee" is defined as an individual, whether commissioned or not, other than an officer or authorized person, who is filling a regular or full-time authorized position and is responsible to an agency head, who is called upon by an agency to contribute time and services as a consultant or adviser, who is a candidate for an executive of professional position.<sup>3</sup>

"Authorized person" is defined as a person other than a public officer or employee, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.<sup>4</sup>

##### Terrorist Nations

The United States Department of State maintains a list of countries determined to have repeatedly provided support for acts of international terrorism. The countries are designated "terrorist nations" under the requirements of three federal laws: section 6(j) of the Export Administration Act; section 40 of the Arms Export Control Act; and section 620A of the Foreign Assistance Act. Sanctions resulting from designation under these acts include:

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<sup>1</sup> Section 112.061(2)(a).

<sup>2</sup> Section 112.061(2)(c).

<sup>3</sup> Section 112.061(2)(d).

<sup>4</sup> Section 112.061(2)(e).

- A ban on arms-related exports and sales.
- Controls over exports of dual-use items, requiring a 30-day Congressional notification for goods or services that could significantly enhance the terrorist-list country's military capability or ability to support terrorism.
- Prohibitions on economic assistance.
- Imposition of miscellaneous financial and other restrictions, including:
  - Requiring the United States to oppose loans by the World Bank and other international financial institutions;
  - Lifting the diplomatic immunity to allow families of terrorist victims to file civil lawsuits in U.S. courts;
  - Denying companies and individuals tax credits for income earned in terrorist-list countries;
  - Denial of duty-free treatment for goods exported to the United States;
  - Authority to prohibit any U.S. person from engaging in a financial transaction with a terrorism-list government without a Treasury Department License;
  - Prohibition of Defense Department contracts above \$100,000 with companies controlled by terrorist-list states.

Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere.

#### Charter Travel to Terrorist Nations

Title 31 of the Code of Federal Regulations, Chapter V, prescribes the ability and legal method to travel to and do business with countries such as Cuba, Iran, Libya, North Korea, Sudan and Syria. The ability to travel to these countries varies as do the requirements for and the ability to be authorized or licensed by the Office of Foreign Assets Control (OFAC) within the United States Department of the Treasury for such travel. Because of its proximity to Florida and the demographic makeup of the state, Cuba is likely the only listed terrorist nation receiving regular charter air and vessel travelers from Florida.

#### Cultural and Educational Travel to Cuba

Under the Cuban Assets Control Regulations, OFAC may issue specific licenses to accredited United States academic institutions to authorize travel-related transactions related to certain educational activities by students or employees affiliated with the institution. Such licenses are valid for multiple trips over a two-year period. Specific licenses may also be issued (in some instances with extended validity permitting multiple trips) for educational activities that do not take place under the auspices of accredited United States academic institutions. Religious organizations are also eligible for multiple-trip two-year specific licenses authorizing travel-related transactions by their representatives in connection with a program of religious activities in Cuba.

Other travel categories for which specific licenses may be issued include, but are not limited to: free-lance journalism; activities of recognized human rights organizations and other humanitarian projects that directly benefit the Cuban people; certain public performances, clinics, workshops, exhibitions and athletic and other competitions; certain non-commercial activities of private foundations or research or educational institutions; and travel-related transactions involving informational materials, donations of food or exportations of goods licensed by the Department of Commerce.

#### **Effect of Proposed Changes**

HB 1171 prohibits funds in the Community College Program Fund and funds made available to community colleges outside the Community College Program Fund to be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a terrorist state. The prohibition includes

state or private funds made available to a community college. The bill also places the same prohibition on state or non-state funds made available to the state universities.

HB 1171 defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere<sup>5</sup>.

HB 1171 prohibits travel expenses of public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

C. SECTION DIRECTORY:

Section 1. Amends s. 1011.81, F.S., prohibiting the use of funds from the Community College Program Fund, or funds made available to community colleges from outside the fund, to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining "terrorist state".

Section 2. Amends s. 1011.90, F.S., prohibiting the use of state or non-state funds made available to state universities to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining "terrorist state".

Section 3. Amends s. 112.061, F.S., providing that travel expenses of public officers or employees for the purpose of implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state shall not be allowed under any circumstances.

Section 4. Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

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<sup>5</sup> Office of the Coordinator for Counter Terrorism, U.S. Department of State, *Country Reports on Terrorism 2004*, p. 88, April 2005.

A survey conducted by the Division of Community Colleges and Workforce Education of the Florida Department of Education indicated that, in the last five years, one community college has sponsored a trip to a country classified by the Department of State as a terrorist state – i.e., an educational trip to Cuba that was paid for with private funds rather than Community College Program Fund or other state funds.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 112.061, F.S., is about per diem and travel expenses of public officers, employees, and *authorized persons*. The bill provides travel expense limitations on public officers and employees, but it is silent on authorized person's travel limitations.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES