

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the standard per diem, subsistence, and mileage rates for public officers, public employees, or authorized persons performing authorized travel.

B. EFFECT OF PROPOSED CHANGES:

Section 112.061, Florida Statutes (2005), sets forth the per diem and travel expenses of public officers,¹ employees,² and authorized persons³ when performing authorized travel.⁴

A version of this section was first enacted by the Legislature in 1945.⁵ Much of the current form of this section, however, dates back to 1963.⁶

This bill changes five aspects of section 112.061, Florida Statutes: (1) legislative intent, (2) authority to incur travel expenses, (3) rates of per diem and subsistence allowance, (4) transportation reimbursement, and (5) travel authorization and voucher forms.

Legislative Intent

Subsection (1) of section 112.061, Florida Statutes sets forth the legislative intent. It recognizes the existence of “inequities, conflicts, inconsistencies, and lapses in the numerous laws regulating or attempting to regulate travel expenses of public officers, employees, and authorized persons in the state.” The expressed intent of the Legislature is to remedy these inequities, conflicts, inconsistencies, and lapses by establishing uniform maximum rates applicable to all public officers, employees, and authorized persons whose travel expenses are paid by a public agency, along with limitations and exceptions.⁷

This subsection also sets forth the legislative intent to preserve standardization and uniformity by prevailing over any conflicting provisions in special law, local law, or general law – unless the general law contains a specific exemption.⁸

This bill changes the legislative intent to note the existence of travel reimbursement rates for state agencies, maximum travel reimbursement rates for counties, county constitutional officers, district school boards, independent special districts (which are referred to as “nonstate public agencies”), and the limitations on all public agencies. The bill also utilizes the definition of traveler, modified by the word authorized, in lieu of “public officers, employees, and authorized persons.”

¹ Fla. Stat. § 112.061(2)(c) (2005) (“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 foregoing two classes of individuals as initial designee or successor.”)

² Fla. Stat. § 112.061(2)(d) (2005) (“An individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to an agency head.”)

³ Fla. Stat. § 112.061(2)(e) (2005) (“A person other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties; a person who is called upon by an agency to contribute time and services as consultant or adviser; or a person who is a candidate for an executive or professional position.”)

⁴ Fla. Stat. § 112.061(2)(f) (2005) (“Traveler--A public officer, public employee, or authorized person, when performing authorized travel.”)

⁵ Ch. 22830, Laws of Fla.

⁶ Ch. 63-400, Laws of Fla.

⁷ Fla. Stat. §112.061(1) (2005).

⁸ *Id.*

Authority to Incur Travel Expenses

Subsection (3) relates to the authority to incur travel expenses. The only changes the bill makes to this subsection are to remove an unnecessary reference to “authorized persons” in the paragraph on costs of per diem of travelers⁹ for foreign travel and to make a conforming change to the word “maximum” (to “rate”) in the paragraph related to the Department of Health.

Rates of Per Diem and Subsistence Allowance

Subsection (6) relates to rates of per diem and subsistence allowance. When traveling as Class A travel (24 hours or more) or Class B travel (less than 24 hours, but overnight) to a convention or conference or within or outside the state on state business, travelers are currently allowed to choose one of two types of “subsistence” reimbursements: (1) a \$50 per diem; or (2) actual expenses for lodging at a single-occupancy rate and a set reimbursement for meals, if actual expenses exceed \$50.¹⁰ The meal reimbursement rate is the same as that set for Class C (short or day trips): \$3 for breakfast, \$6 for lunch, and \$12 for dinner.¹¹ These meal and per diem rates were established in 1981.¹²

This bill increases the per diem rate to \$90 and increases the subsistence reimbursement rate for meals: \$5 for breakfast, \$11 for lunch, and \$23 for dinner.

Transportation Reimbursement

Subsection (7) relates to transportation. It authorizes the use of privately owned vehicles for official travel instead of publicly owned vehicles or common carriers.¹³ Travel using a privately owned vehicle is reimbursed at a fixed rate of 29 cents per mile or the common carrier fare for such travel, as determined by the agency head. The current mileage reimbursement rate was established in 1994.¹⁴

This bill increases the mileage allowance for travel using a privately owned vehicle to 38 cents per mile and makes it an economical determination by the agency head to pay the common carrier fare instead.

Travel Authorization and Voucher Forms

Subsection (11) relates to travel authorization and voucher forms. This bill makes minor grammatical changes to this subsection.

C. SECTION DIRECTORY:

Section 1: Amends section 112.061, Florida Statutes, related to the per diem and travel expenses of public officers, employees, and authorized persons.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁹ The definition of “traveler” includes “authorized person,” *supra* note 4.

¹⁰ Fla. Stat. § 112.061(6)(a) (2005).

¹¹ Fla. Stat. § 112.061(6)(b) (2005).

¹² Ch. 81-207, Laws of Fla.

¹³ Fla. Stat. § 112.061(7)(d)1. (2005) (Authorized by the agency head or her or his designee).

¹⁴ Ch. 94-139, Laws of Fla.

This bill does not appear to create, modify, amend, or eliminate a revenue source of state government.

2. Expenditures:

With the increases to the per diem, subsistence, and mileage reimbursement rates, this bill will create, modify, and amend an expenditure of state government, but the extent of this expenditure is not known at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to create, modify, amend, or eliminate a revenue source of local governments.

2. Expenditures:

Because counties, constitutional officers, and independent special districts are bound by the increases to the per diem, subsistence, and mileage reimbursement rates, this bill will create, modify, and amend an expenditure of local governments, but the extent of this expenditure is not known at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill may, however, require counties to spend funds or to take an action requiring the expenditure of funds.¹⁵ The bill does not appear to satisfy the requirements of section 18 of article VII of the Florida Constitution¹⁶ because it does not provide that the act fulfills an important state interest and the expenditures are required by a law which appears to apply to all persons similarly situated, including the state and local governments.

¹⁵ Fla. Stat. § 112.061(14) (2005) (This subsection was added in 2003 and allows the counties, county constitutional officers, district school boards, and independent special districts to establish rates that exceed the maximum travel reimbursement rates. Depending on how section 112.061, Florida Statutes, and opinions of the Attorney General (related to municipalities) are interpreted, counties and county constitutional officers may have to reimburse at the rates prescribed by this bill.)

¹⁶ Section 18 of article VII of the Florida Constitution provides that counties and municipalities may not be bound by a general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria is met: (1) funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; (2) the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; (3) the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; (4) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or (5) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments – House Combined Bill

Pursuant to House Rule 7.9(c), the Governmental Operations Committee will consider the introduction of a House combined bill, the substance of which will be drawn from HB 117 and HB 477.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.