

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 6001 CS PHCB GO 06-01 Per Diem and Travel Expenses  
**SPONSOR(S):** Governmental Operations Committee, Coley, and Ausley  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Governmental Operations Committee	7 Y, 0 N	Mitchell	Williamson
1) Fiscal Council	19 Y, 0 N, w/CS	Dobbs	Kelly
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

### SUMMARY ANALYSIS

The bill makes a number of changes relating to the per diem and travel expenses of public officers, employees, and authorized persons:

- Revises the legislative intent;
- Changes the rate of per diem from the 1981 rate of \$50 to \$75;
- Increases the subsistence reimbursement for meals from the 1981 rates: \$3 to \$5 for breakfast, \$6 to \$11 for lunch, and \$12 to \$19 for dinner;
- Raises the mileage allowance for use of a privately owned vehicle from 29 cents per mile, which was established in 1994, to 44.5 cents per mile;
- Authorizes counties, county officers, district school boards, and special districts to establish per diem and subsistence rates as long as those rates are not less than the rates currently in effect; and
- Removes duplicative or incorrect language and makes minor grammatical changes.

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

This bill provides appropriations of \$8.4 million from recurring General Revenue and \$12.7 million from recurring trust funds.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

None.

#### B. EFFECT OF PROPOSED CHANGES:

Section 112.061, Florida Statutes (2005), sets forth the per diem and travel expenses of public officers,<sup>1</sup> employees,<sup>2</sup> and authorized persons<sup>3</sup> when performing authorized travel.<sup>4</sup>

A version of this section was first enacted by the Legislature in 1945.<sup>5</sup> Much of the current form of this section, however, dates back to 1963.<sup>6</sup>

This bill changes seven aspects of section 112.061, Florida Statutes: (1) legislative intent, (2) authority to incur travel expenses, (3) Class C travel reimbursement, (4) rates of per diem and subsistence allowance, (5) transportation reimbursement, (6) travel authorization and voucher forms, and (7) applicability to certain local government entities.

#### 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.<sup>7</sup>

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.<sup>8</sup>

This bill changes the legislative intent to provide that the purpose is to *prevent* the inequities, conflicts, inconsistencies, and lapses. The bill replaces the term “uniform maximum rates” with the term “standard travel reimbursement rates.”<sup>9</sup> The bill also recognizes the procedures and exemptions provided by section 112.061, Florida Statutes.

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<sup>1</sup> 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.”)

<sup>2</sup> 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.”)

<sup>3</sup> 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.”)

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

<sup>5</sup> Ch. 22830, Laws of Fla.

<sup>6</sup> Ch. 63-400, Laws of Fla.

<sup>7</sup> Fla. Stat. § 112.061(1) (2005).

<sup>8</sup> *Id.*

<sup>9</sup> As discussed in the section on Applicability to Certain Local Governments, section 112.061, Florida Statutes, no longer governs the per diem and travel expenses of municipalities. Counties, certain county constitutional officers, district school boards, and special

## 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 travelers<sup>10</sup> for foreign travel and to make a conforming change to the word “maximum” (to “rate”) in the paragraph related to the Department of Health.

## Class C Travel Reimbursements

Section 112.061, Florida Statutes, recognizes three types of travel:

- Class A travel is continuous travel of 24 hours or more away from official headquarters.<sup>11</sup>
- Class B travel is continuous travel of less than 24 hours which involves overnight absence from official headquarters.<sup>12</sup>
- Class C travel is travel for short or day trips where the traveler is not away from his or her official headquarters overnight.<sup>13</sup>

Yet, since 2001, the Legislature has eliminated reimbursement for Class C (short or day trips) travel for “state travelers” through the implementing bill for the General Appropriations Act<sup>14</sup>:

For the 2005-2006 fiscal year only and notwithstanding the other provisions of this subsection, for Class C travel, a state traveler shall not be reimbursed on a per diem basis nor shall a traveler receive subsistence allowance. This paragraph expires July 1, 2006.<sup>15</sup>

This bill removes the two expiring references, which currently eliminate Class C travel (short or day trips) reimbursement for state travelers.

## 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.<sup>16</sup> 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.<sup>17</sup> These meal and per diem rates were established in 1981.<sup>18</sup>

This bill increases the per diem rate to \$75 and increases the subsistence reimbursement rate for meals: \$5 for breakfast, \$11 for lunch, and \$19 for dinner.

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districts will also have considerably more latitude in setting their own per diem and subsistence reimbursement rates under the provisions of this bill. As such, section 112.061, Florida Statutes, does not establish a “uniform maximum rate” as much as it establishes state “standard travel reimbursement rates.”

<sup>10</sup> The definition of “traveler” includes “authorized person,” *supra* note 4.

<sup>11</sup> Fla. Stat. §112.061(2)(k) (2005).

<sup>12</sup> Fla. Stat. §112.061(2)(l) (2005).

<sup>13</sup> Fla. Stat. §112.061(2)(m) (2005).

<sup>14</sup> Ch. 2001-254, Laws of Fla., § 48; ch. 2002-402, Laws of Fla., § 46; ch. 2003-399, Laws of Fla., § 49; ch. 2004-269, Laws of Fla., § 32; ch. 2005-71, Laws of Fla., § 23.

<sup>15</sup> Fla. Stat. § 112.061(5)(c) and (6)(d) (2005).

<sup>16</sup> Fla. Stat. § 112.061(6)(a) (2005).

<sup>17</sup> Fla. Stat. § 112.061(6)(b) (2005).

<sup>18</sup> Ch. 81-207, Laws of Fla.

## Transportation Reimbursement

Subsection (7) relates to transportation and permits the use of privately owned vehicles for official travel instead of publicly owned vehicles or common carriers.<sup>19</sup> 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.<sup>20</sup> The current mileage reimbursement rate was established in 1994.<sup>21</sup>

This bill increases the mileage allowance for travel using a privately owned vehicle to 44.5 cents per mile<sup>22</sup> 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.

## Appropriations

The bill provides \$8.4 million from General Revenue and \$12.7 million from trust funds for distribution to the agencies.

## Applicability to Certain Local Government Entities

Subsection (14) was added to section 112.061, Florida Statutes, in 2003.<sup>23</sup> This subsection allows the counties, county constitutional officers, district school boards, and independent special districts to establish rates that exceed the maximum travel reimbursement rates. By contrast, section 166.021, Florida Statutes, which was also created in 2003, authorizes municipalities to establish a per diem and travel expense policy and exempts those municipalities who do establish such a policy from the provisions of section 112.061, Florida Statutes.<sup>24</sup>

This bill allows counties, county constitutional officers, district school boards, and independent special districts to establish per diem and subsistence rates which vary from section 112.061, Florida Statutes, as long as those rates are not less than the rates in effect for the 2005-2006 fiscal year: \$50 for per diem, \$3 for breakfast, \$6 for lunch, and \$12 for dinner.

### 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 appropriation of \$8.4 million from General Revenue and \$12.7 million from trust funds.

Section 3: Provides an effective date of July 1, 2006.

<sup>19</sup> Fla. Stat. § 112.061(7)(d)1. (2005) (Authorized by the agency head or her or his designee).

<sup>20</sup> *Id.* (As determined by the agency head).

<sup>21</sup> Ch. 94-139, Laws of Fla.

<sup>22</sup> Beginning January 1, 2006, the business standard mileage rate for the use of a vehicle is 44.5 cents per mile. This new rate for business miles compares to a rate of 40.5 cents per mile for the first eight months of 2005. In September 2005, the IRS made a special one-time adjustment for the last four months of 2005, raising the rate for business miles to 48.5 cents per mile in response to a sharp increase in gas prices. Internal Revenue Service, IRS Announces 2006 Standard Mileage Rates, at <http://www.irs.gov/newsroom/article/0,,id=151226,00.html> (last visited Jan. 12, 2006).

<sup>23</sup> Ch. 2003-125, Laws of Fla.

<sup>24</sup> *Id.* The "whereas" clauses several factors in the adoption of this exemption: the authority granted by the Municipal Home Rule Powers Act, the manner in which local governments relied on Attorney General Opinion 74-18, and the potential impact of Attorney General Opinion 2003-01.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

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 increase the expenditures of state government. The increase is estimated to be \$8.4 million from General Revenue and \$12.7 million from trust funds annually.

### 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:

This bill does not appear to create, modify, amend, or eliminate an expenditure of local governments.

### 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:

The bill provides recurring appropriations for the agencies in the amounts of \$8.4 million from General Revenue and \$12.7 million from trust funds.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.<sup>25</sup> This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

#### 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:

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<sup>25</sup> Counties or county constitutional officers are not required to pay the higher per diem and subsistence rates provided by this bill. Rather, counties and county constitutional officers may establish varying rates as long as those rates are not less than the current statutory rates.

None.

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

At its meeting on February 22, 2006, the Governmental Operations Committee adopted an amendment to the proposed House combined bill which set the per diem, subsistence, and mileage rates.

On March 30, 2006, the Fiscal Council adopted an amendment providing appropriations to be distributed to the agencies for the increased costs resulting from the change in the travel reimbursement rates.