

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7163 PCB GAP 10-25 Review of the Department of Management Services under the Florida Government Accountability Act

SPONSOR(S): Economic Development & Community Affairs Policy Council, Governmental Affairs Policy Committee, and Schenck

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Governmental Affairs Policy Committee	9 Y, 1 N	Tait	Williamson
1)	Economic Development & Community Affairs Policy Council	16 Y, 0 N, As CS	Tait	Tinker
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill is a result of the review of the Department of Management Services under the Florida Government Accountability Act.

The bill establishes the Governor and the Cabinet as the head of the Department of Management Services. It repeals the State Employee Wellness Council, which was created to advise the Department of Management of Services on health care education for employees.

The bill requires parties represented by attorneys in hearings held under the Division of Administrative Hearings (DOAH) Adjudication of Disputes Program and in the Worker’s Compensation Appeals Program to file documents electronically. Parties not represented by attorneys are encouraged, but not required, to file documents electronically.

The bill creates statewide standards for agencies to use in determining employee assignment of wireless communication devices. It requires agencies to procure for wireless devices and services using SUNCOM Network Services and provides an exception process. The bill requires state agencies to submit, as part of their legislative budget request, an inventory of all wireless devices and expenditures.

The bill directs the Department of Management Services to create, administer, and maintain a centralized fleet of all state-owned motor vehicles and requires the department to submit a plan to centralize the fleet.

The bill could create a positive fiscal impact on state government. It does not create a fiscal impact on local governments.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Management Services

Currently, the secretary of the department is appointed by the Governor and confirmed by the Senate.¹ The bill places the Department of Management Services under the Governor and Cabinet with the authority to appoint an executive director, upon confirmation by the Senate.

Florida State Employee Wellness Council

In 2006, the Florida State Employee Wellness Council was created to advise DMS on health care education for employees and to assist in developing minimum benefits for all health care providers when providing age- and gender-based wellness benefits. The council is composed of nine members appointed by the Governor.

As part of the Department of Management Services Sunset Review, the Office of Program Policy Analysis and Government Accountability recommended abolishing the council because the council does not appear to be fulfilling its statutory mission.² Additionally, council duties related to wellness programs have been assigned to other state entities. For example, the Department of Health is required to collaborate with other state agencies to promote healthy lifestyles of state employees, and the Governor's Council on Physical Fitness was established in 2007 with the goal of developing a state plan of action to increase the physical activity of Floridians.

The bill repeals the Florida State Employee Wellness Council.

Electronic Filing and Service at Division of Administrative Hearings

The Division of Administrative Hearings (DOAH) is made up of the Office of Administrative Law Judges (ALJs) and the Office of the Judges of Compensation Claims (OJCCs). ALJs hear administrative disputes under ss. 120.56 and 120.57, F.S. JCCs mediate workers compensation disputes pursuant to s. 440.192, F.S.

Both the OJCCs and the ALJs currently allow electronic filing and traditional paper and fax filing. The number of electronically filed documents has grown steadily since the implementation of electronic filing. The ALJs received 18,230 electronically filed documents, and the JCCs received 430,548

¹ See s. 20.22, F.S.

² Department of Management Services Advisory Committees Assessment, Office of Program Policy Analysis and Government Accountability, Report No. 08-S11, December 2008.

electronically filed documents in fiscal year 2008-09.³ All documents received by DOAH are stored in an electronic database; and paper documents received by DOAH are scanned by employees and uploaded to the database.⁴

Internal policy at the Adjudication of Disputes Program dictates that only parties who specifically have signed up for the electronic filing program will be served documents electronically. As a result, a relatively low number of documents (approximately 26 percent) are e-served by the ALJs. Conversely, approximately 99 percent of documents are e-served by the OJCC because this program electronically serves to any party who has provided an e-mail address to the judge's staff.

Under s. 120.53(1)(a)2.b., F.S., agencies must maintain and make available for the public an index of all final orders and agency rules. As an alternative, the statute allows agencies to electronically transmit those documents to DOAH for indexing on its electronic database. The Department of Agriculture and Consumer Services and the Department of Environmental Protection currently use DOAH to comply with mandates of s. 120.53(1)(a)2.b., F.S.

The bill creates section 120.585, F.S., to require any document filed with DOAH by an attorney to be submitted through electronic means. Any party not represented by an attorney is encouraged to file any document through the division's website. The bill amends ss. 57.111, 120.54, 120.56, 120.569, 120.57, 440.192, 440.25, 440.29, 440.45, 552.40, 553.73, and 961.03, F.S., to provide for electronic procedures in administrative proceedings. There is no charge to register for DOAH's electronic filing service.

Statewide Wireless Communication Utilization

Chapter 2009-15, L.O.F., directed the Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Department of Management Services (DMS), to develop recommendations regarding the prudent issuance of state-owned wireless communication devices, including telephones, personal digital assistants, and other electronic devices. OPPAGA found that there was no single-source of information regarding state-owned wireless devices and, after interviewing executive agencies, found that agencies currently have more than 40,000 wireless devices and spend approximately \$17 million annually for their operation.⁵

DMS has established state term contracts for the purchase of wireless devices and services, as well as an alternative source contract with a different provider. The state term contract enables agencies to take advantage of free cellular phones and pay only for the minutes used. The alternative source contract provides an across the board discount of 25 percent for wireless services. OPPAGA found that state agencies with the highest cellular telephone expenditures were making limited purchases using DMS cellular phone contracts.⁶

OPPAGA made several recommendations to ensure prudent management of wireless communication devices including recommending that the Legislature:

- Establish statewide policies to limit the use of wires devices to employees with job responsibilities that match device capabilities.
- Require agencies to monitor employee use and obtain cost effective services plans.
- Ensure procurement practices use the most cost effective service.
- Direct agencies to report wireless device costs via agency legislative budget requests.

This bill requires agencies to limit assignment of wireless communication devices to only those employees who, as part of their job responsibility, must:

- Be immediately available to citizens, supervisors, or subordinates;
- Be available to respond to emergency situations;

³ Division of Administrative Hearings, *Thirty-Sixth Annual Report*, p.7 (Feb. 1, 2010).

⁴ Ibid.

⁵ Options for Reducing State Agency Costs for Cellular Telephones and Other Wireless Devices, Office of Program Policy Analysis and Government Accountability, March 3, 2009.

⁶ Ibid.

- Be available to receive calls outside of regular working hours;
- Have access to the technology in order to productively perform job duties in the field; or
- Have limited or no access to a standard phone, or have no ability to use a personal cell phone if needed.

The bill provides that procurement for devices and services must be through SUNCOM Network Services, unless otherwise approved by DMS. Agencies that wish to procure services through an alternative method must provide a cost benefit analysis and reason for deviating from the state term contract and submit the analysis to DMS for approval.

The bill requires agencies to audit wireless communication devices for personal use and requires reimbursement from employees. It also requires agencies to submit as part of the legislative budget request an annual inventory of wireless communication devices and expenditures, a list of job classifications assigned a wireless device, and the steps the agency has taken to contain costs.

Centralized Fleet of State-owned Motor Vehicles

Each state agency operates an individual pool of state-owned motor vehicles. The majority of these vehicles remain in an agency pool that is available for general use by agency employees. Section 287.17, F.S., provides for agency heads to assign state-owned vehicles to employees who are projected to drive a minimum of 10,000 miles annually for official business.

Data from the Department of Management Services' Equipment Management Information System for calendar year 2009 showed that agencies own approximately 18,237 cars and light trucks. Of these, approximately 30 percent were used for law enforcement purposes—leaving 12,687 vehicles operated for general agency use. A review of these vehicles by OPPAGA showed that 63 percent of these vehicles were driven less than 10,000 miles during the year. In addition, 2,939 of these vehicles were assigned to an individual, but nearly 45 percent of assigned vehicles were not driven the statutorily required 10,000 miles.⁷ In contrast, 654 employees were reimbursed for driving personal vehicles more than 10,000 miles on state business during fiscal year 2008-09.⁸

Several states have implemented a centralized fleet of state-owned motor vehicles in an effort to provide cost savings through efficiencies and disposal of surplus vehicles. This bill directs DMS to create, administer, and maintain a centralized fleet of motor vehicles and requires the department to prepare a plan to centralize state-owned motor vehicles. The plan must include information related to: a method for assigning and administering vehicles to state agencies and employees, a method for managing a pool of vehicles for short-term use, a method for charging state agencies for use, a method for purchasing necessary vehicles, a method for repairing and maintaining vehicles, a method for monitoring the use of vehicles, a method for maintaining records, and a method for determining when it is cost-efficient to use a third party vehicle rather than a state-owned car. In developing the plan, the department is required to compare the costs and benefits of contracting with a third party vendor for the operation of a centralized fleet. The report is due to the President of the Senate, the Speaker of the House of Representatives, and the Governor and the Cabinet by November 1, 2010.

B. SECTION DIRECTORY:

Section 1. Amends section 20.22, F.S., to establish the Governor and the Cabinet as the head of the Department of Management Services.

Section 2. Amends section 57.111, F.S., to provide for electronic procedures in administrative proceedings.

Section 3. Repeals section 110.123(13), F.S., relating to the creation and duties of the Florida State Employee Wellness Council.

⁷ Vehicle Use by State Agency, Office of Program Policy Analysis and Government Accountability, March 11, 2010.

⁸ Ibid.

Section 4. Amends section 120.54, F.S., to provide for electronic procedures in administrative proceedings.

Section 5. Amends section 120.56, F.S., to provide for electronic procedures in administrative proceedings.

Section 6. Amends section 120.569, F.S., to provide for electronic procedures in administrative proceedings.

Section 7. Amends section 120.57, F.S., to provide for electronic procedures in administrative proceedings.

Section 8. Creates section 120.585, F.S., to provide for electronic procedures in administrative proceedings.

Section 9. Amends section 216.023, F.S., to require agencies to submit certain information in the Legislative Budget Request.

Section 10. Creates section 282.712, F.S., to establish statewide wireless device utilization standards.

Section 11. Requires the Department of Management Services to create a centralized motor vehicle fleet.

Section 12. Amends section 440.192, F.S., to provide for electronic procedures in administrative proceedings.

Section 13. Amends section 440.25, F.S., to provide for electronic procedures in administrative proceedings.

Section 14. Amends section 440.29, F.S., to provide for electronic procedures in administrative proceedings.

Section 15. Amends section 440.45, F.S., to provide for electronic procedures in administrative proceedings.

Section 16. Amends section 552.40, F.S., to provide for electronic procedures in administrative proceedings.

Section 17. Amends section 553.73, F.S., to provide for electronic procedures in administrative proceedings.

Section 18. Amends section 961.03, F.S., to provide for electronic procedures in administrative proceedings.

Section 19. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See *Fiscal Comments*.

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:

The bill implements several policies that have the potential of generating revenue savings for the state.

DOAH estimates it will save at least \$9,500 per year on electronic services of documents. DOAH also notes that electronic receipt and service of documents will save incalculable processing and filing time.

Statewide policies for the utilization of wireless communication devices may reduce individual agency costs associated with these services.

Centralization of state-owned vehicles will provide the opportunity for cost savings resulting from more efficient use and disposal of motor vehicles, as well as decreased agency administrative costs within each agency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Economic Development and Community Affairs Policy Council adopted an amendment, which requires agencies to procure wireless communication devices and services through SUNCOM Network Services unless otherwise approved by the Department of Management Services.

The bill was reported favorably and the analysis has been updated to reflect the committee substitute.