

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: SPB 7138

INTRODUCER: For consideration by the Budget Committee

SUBJECT: Department of Management Services

DATE: March 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Betta	Meyer, C.		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill includes the following provisions relating to the Department of Management Services (DMS).

- Eliminates the Executive Aircraft Program administered by the DMS.
- Implements recommended changes by the Chief Financial Officer regarding public building construction, to incorporate internal furnishings of facilities into the budgeting process, to provide a definition of “art,” and to provide criteria for what can be purchased for the finishing of facility interiors. The bill also prohibits the use of construction management entities for projects exceeding \$2 million.
- Extends the \$3 fee on all noncriminal moving traffic violations for the purpose of supporting the Statewide Law Enforcement Radio System (SLERS) until 2021.
- Deletes the one percent reimbursement limit on the Florida State Employees Charitable Campaign to ensure the DMS is fully reimbursed for costs associated with administering the campaign.
- Provides direction for the DMS’s Division of Telecommunications to manage and provision SUNCOM¹ services, including the MyFloridaNet contract, and to develop options for leveraging other existing telecommunications networks to potentially reduce the cost of services to state agencies by reprocurring network services.
- Enacts a \$200 filing fee for aggrieved persons to appeal no-cause determinations by the Florida Commission on Human Relations to the Division of Administrative Hearings.

¹ SUNCOM is the brand name under which the Department of Management Services provides voice, data, and conferencing communications to customers.

This bill substantially amends the following sections of the Florida Statutes: 110.181, 216.0158, 216.043, 216.182, 216.301, 255.043, 255.29; 255.30, 255.32, 273.055, 282.0041, 282.702, 282.703, 287.16, 287.17, 318.18, 318.21.

The bill creates section 760.12, Florida Statutes.

The bill repeals section 287.161, Florida Statutes.

II. Present Situation:

Executive Aircraft Program

The Executive Aircraft Program, authorized in s. 287.161, F.S., is responsible for providing the state's executives with on-demand air travel. The DMS has sold the state's two aircraft that made up the aircraft pool, and the program is no longer in operation. The DMS employed 12 staff persons to handle the aircraft operations, including pilots and administration.

Construction of State Buildings

Chapter 255, F.S., governs publicly owned buildings and the construction of those buildings. Currently, there is no definition of "art" outlined in chapter 255, F.S. The limitation on the amount that can be spent on art in the construction of a state facility is 0.5 percent of the appropriation, with a maximum of \$100,000. Without a statutory definition of "art," there is a potential to exceed the maximum allotment for art by purchasing items as internal furnishings that would otherwise be designated as art.

Sections 216.0158, 216.043, 216.182, and 216.30, F.S., govern the budgeting for buildings. Under these sections, the fixed capital outlay plans must be approved by the Executive Office of the Governor. The sections specify the certified forward process for encumbered funds as well as the reversion of funds not encumbered. Specifically, s. 216.301, F.S., permits 19 months for a fixed capital outlay appropriation to be expended, contracted, or committed. The amount not expended, contracted, or committed after 19 months, must be reverted.

The use of construction managers by governmental entities allows a single contact for the governmental entity and shifts the risk of project timelines and liabilities to the construction manager. Once a construction manager is selected through a competitive procurement, the manager assists the governmental entity in all matters relating to the project. The construction manager assumes all the risk relating to the cost of the project.

Statewide Law Enforcement Radio System

The base revenue of the State Agency Law Enforcement Radio System Trust Fund within the DMS is a \$1 fee on boat and vehicle registrations, which funds the base contract relating to the Statewide Law Enforcement Radio System.

Sections 318.18 and 318.20, F.S., provides a \$3 fee on all noncriminal moving traffic violations for the purpose of supporting the SLERS. The additional revenue supports the administrative functions and enhancements to the system, such as radio replacements. This fee is not for the

contract payment relating to the build-out of the system. This fee is set to expire on June 30, 2012.

Florida State Employees Charitable Campaign

Section 110.181, F.S., requires the DMS to establish and maintain, in coordination with the Department of Financial Services, an annual Florida State Employees' Charitable Campaign. This includes procuring the services of a fiscal agent to receive, account for, and distribute charitable contributions among participating charitable organizations. Further, this section limits the amount that the DMS may be reimbursed for the costs of administering the campaign to one percent of the total gross proceeds. The administration of the program costs approximately \$150,000 per year, while the reimbursement is approximately \$50,000 per year.

Telecommunications Networks

MyFloridaNet (MFN)

The Division of Telecommunications (DivTel) within the DMS is responsible for the procurement and management of various telecommunication services on an enterprise basis for Florida's state government agencies, local units of government, and certain non-profit organizations. MFN is the current network solution providing the enterprise communications infrastructure for broadband data services. MFN serves approximately 150,000 users.

The MFN contract, signed in 2006, includes a base period of five years, with an additional five year renewal. In December 2010, DivTel approved a contract amendment, which renewed the MFN contract through September 2017. The contract also contains provisions to allow termination for convenience with six months notice.

Within the State of Florida, there are numerous autonomous independent federal, state, and local government networks that have not fully leveraged the procurement of telecommunications services to achieve the greatest economies of scale. These include the following:

Florida Lambda Rail (FLR)

The Florida Lambda Rail is a 1,540 mile optical fiber network developed as a branch of the National Lambda Rail, an \$80 million federal initiative. The FLR was built and is operated by a consortium of nine state universities and three private universities.² These institutions are equity members that provide an annual investment for the operation and maintenance of the FLR.

The FLR provides nearly limitless bandwidth for scientific research and the clinical and educational goals of its owners and other educational and governmental institutions. It provides access to supercomputing centers and other academic institutions across the nation. However,

² Florida Atlantic University, Florida Gulf Coast University, Florida International University, Florida State University, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida; and Florida Institute of Technology, Nova Southeastern University, and University of Miami

estimates of five percent utilization indicate extensive capacity available for use by education and governmental entities.

Florida Department of Transportation (DOT) Intelligent Transportation Systems (ITS)

The DOT Intelligent Transportation Systems network is a fiber and microwave network that supports communication between the Traffic Management Centers in six DOT districts and the Florida Turnpike. The current system has 1,022 miles of fiber optic cable. The ITS network is not managed as a statewide asset. Most existing ITS systems operate in a single county or DOT district. Formal agreements are not in place to cover the exchange of incident and other traffic data between traffic operations centers and Traffic Management Centers in different districts.

The ITS systems have been built and supported in part with Federal Highway Administration (FHWA) funds since 1993. The use of federal funds for ITS construction limits the use of the infrastructure for non-transportation purposes unless determined as surplus by the DOT. *Title 23 CFR Section 710.409* requires the state transportation department to specify procedures for determining when a real property interest is no longer needed. It requires fair market value or rent for use or disposal of these assets, except if it is in the “overall public interest for social, environmental, or economic purposes (or) nonproprietary governmental use...” The DOT has not developed such procedures that would enable the state to potentially leverage excess ITS resources.

Other Metropolitan Area Networks

The Northwest Regional Data Center (NWRDC) at Florida State University owns and manages a 14.3 mile fiber optic loop surrounding the Tallahassee Metropolitan Area, known as the Tallahassee Fiber Loop. Through its affiliation with Florida State University, this metropolitan area network provides NWRDC customers with up to ten gigabyte bandwidth and connectivity to the FLR and Internet2.³ The NWRDC has been designated as a state primary data center pursuant to s. 282.201(2)(f), F.S.

Florida Commission on Human Relations

Chapter 760, F.S., authorizes the Florida Commission on Human Relations to resolve discrimination cases relating the Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development discrimination. If the commission issues a no cause determination relating to a specific complaint, the aggrieved person may appeal to the Division of Administrative Hearings for a de novo review. The division indicates that it confirms commission’s determination in over 95 percent of the appeals.

³ Internet2 is a not-for-profit U.S. networking consortium led by members from the research and education communities, industry, and government.

III. Effect of Proposed Changes:

Executive Aircraft Program

The bill eliminates the Executive Aircraft Program administered by the DMS by deleting s. 287.161, F.S.

Construction of State Buildings

The bill implements recommended changes by the Chief Financial Officer regarding public building construction. The bill incorporates internal furnishings of facilities into the budgeting process, provides a definition of “art,” and provides criteria for what can be purchased for decorating facilities. The term “art” is defined for this section as “an original object or work produced by an artist and includes bas-relief, ceramic, craft, environmental piece, fiber, fountain, glass, kinetic, light sculpture, mixed media, mobile, mosaic, mural, photography, print, sculpture, tapestry, wall hanging, digital media, or framed drawing intended to be displayed for the decoration of a public area of a state building.”

The bill requires the standards for use of a building to include an analysis of the cost per square foot. The internal furnishings to be purchased must include a cost analysis of the materials and components proposed and the cost savings over time to justify such materials. The specification and use of a material that does not meet the standards adopted by the DMS must include written justification and an analysis of the benefits of using such a material.

The bill requires appropriations not spent for the purpose of a project to revert to the fund from which it was appropriated and prohibits the use of construction management entities for projects exceeding \$2 million.

Statewide Law Enforcement Radio System

The bill extends the \$3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021.

Florida State Employees Charitable Campaign

The bill deletes the one percent reimbursement limit on the Florida State Employees Charitable Campaign, which allows the DMS to be reimbursed for all actual costs. Currently, the DMS absorbs approximately \$100,000 per year in administration costs not covered by the reimbursement.

Telecommunications Networks

The bill includes the following requirements related to telecommunications networks.

- The DMS must annually report its service costs, competitive rate comparisons, and recommendations for improving the efficiency and effectiveness of the SUNCOM Network services.

- The DMS must coordinate with Agency for Enterprise Information Technology to study the technical and economic feasibility of using existing resources, such as Florida Lambda Rail, the unused DOT fiber-optics capacity, and the Tallahassee Fiber Loop. A feasibility analysis is due by March 1, 2012, to the Governor, President of the Senate, and Speaker of the House of Representatives.
- The DOT must provide inventory and utilization of fiber used by Intelligent Traffic Systems and establish criteria and a procedure to allow other public-interest use of ITS resources.
- The DMS must develop a competitive solicitation for end-to-end network services, with the primary objective being the reduction of telecommunications services costs.
 - The solicitation must be issued by September 1, 2012.
 - Vendor responses are required by November 1, 2012.
 - Transition to selected statewide network service must take place no later than June 30, 2014.

In addition, the bill reinforces the need for centralized cost-effective decision making regarding the purchase, lease, acquisition, and use of telecommunications equipment, software, and services to leverage the purchase power of the state to reduce costs.

Florida Commission on Human Relations

The bill creates s. 760.12, F.S., authorizing a \$200 filing fee to appeal a no-cause determination by the Florida Commission on Human Relations to the Division on Administrative Hearings. Based on the division's number of hearing hours relating to these appeals, the filing fee would need to be approximately \$4,600 for full cost recovery. As a filing fee of that magnitude could prevent the appeal from being a viable option, the filing fee is proposed at \$200 that may discourage frivolous appeals while providing an opportunity for individuals with legitimate cases to reasonably seek an appeal before the division.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill extends the \$3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021.

The fee generates over \$5 million annually for the trust fund to support the administrative functions and enhancements to the system, such as radio replacements.

The bill creates a \$200 filing fee to appeal a no-cause determination by the Florida Human Relations Commission to the Division of Administrative Hearings. The estimated revenue from this fee is unknown, as the fee is anticipated to cause a decrease in frivolous appeals. However, based on the average of 160 appeals per year, the amount collected would be \$32,000.

B. Private Sector Impact:

Individuals receiving a noncriminal moving traffic violation will continue to be assessed a \$3 surcharge to support the SLERS.

Individuals appealing a no-cause determination by the Florida Commission on Human Relations to the Division of Administrative Hearings will be required to pay a filing fee of \$200.

C. Government Sector Impact:

The bill extends the \$3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021. The fee generates over \$5 million annually for the trust fund to support the administrative functions and enhancements to the system, such as radio replacements.

The bill creates a \$200 filing fee to appeal a no-cause determination by the Florida Commission on Human Relations to the Division of Administrative Hearings. The estimated revenue from this fee is unknown, as the fee is anticipated to cause a decrease in frivolous appeals. However, based on the average of 160 appeals per year, the amount collected would be \$32,000.

According to the DMS, the inability to utilize construction management entities to oversee construction projects with a cost of more than \$2 million would have a major workload impact and adequate resources are not available. The amount of the workload increase is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
