

STORAGE NAME: h0077s1.go

DATE: February 8, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 77

RELATING TO: Financial Matters

SPONSOR(S): Committee on Financial Services, Representative Flanagan and others

COMPANION BILL(S): CS/SB 150 (Similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES YEAS 11 NAYS 0
- (2) GOVERNMENTAL OPERATIONS
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

The bill revises several sections of the statutes relating to the Department of Banking and Finance's (DBF) accounting and auditing responsibilities and the department's structure. Specifically the bill:

- augments the Comptroller's subpoena power to a level at par with that of other divisions of the DBF;
- requires state employees who become eligible to receive retirement benefits after this law becomes effective to receive such benefits via direct deposit;
- removes statutory provisions creating "divisions," within the DBF, and establishes the Office of Financial Investigations;
- specifies that the two year statute of limitations period for filing a wage or other benefit claim starts running from the date the payment was made;
- permits agency heads to delegate authority to approve employee travel expenses and per diem expenses;
- requires the DBF to print only the telephone number of the Comptroller's vendor ombudsman on purchase orders. In addition, state employees no longer must sign an annual statement that they were provided a copy of statutes and rules;
- increases the inventory reporting threshold of operating capital outlay (OCO) for tangible personal property from \$500 to \$1,000, and increases the hardbound book threshold from \$100 to \$250;
- removes the requirement that the Comptroller "publish" financial statements by December 31, but requires the Comptroller to furnish them to the Auditor General by that date. The bill requires the Comptroller to publish the Comprehensive Annual Financial Report (CAFR) by February 28, annually;
- renames the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem; and
- provides that *all* documents directly made or received by any person connected with a state services contract in excess of \$15,000 are public documents subject to the provisions of Chapter 119, F.S. *Every* written agreement relating to a contract in excess of \$15,000 must contain a provision permitting unilateral cancellation for refusal to allow public access to all documents made or received.

STORAGE NAME: h0077s1.go

DATE: February 8, 1999

PAGE 2

The bill does not appear to have a negative fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Subpoena Power of the Comptroller

The State Comptroller functions as a member of the Cabinet, and as head of the DBF. The Comptroller's primary constitutional responsibility is to serve as the fiscal "watchdog" of the state's \$45+ billion budget, ensuring that every dollar is legally spent and that the goods and services purchased on the public's behalf are received. Under current law, the Florida Comptroller has general authorization to issue subpoenas in the furtherance of an investigation by that office:

The Comptroller of this state may demand and require full answers on oath from any and every person, party or privy to any account, claim, or demand against or by the state, such as it may be his or her official duty to examine into, and which answers the Comptroller may require to be in writing and to be sworn to before himself or herself or before any judicial officer or clerk of any court of the state so as to enable such Comptroller to decide as to the justice or legality of such account, claim, or demand.

(Section 17.05, F.S.)

In contrast with the general subpoena authority accorded to the Comptroller, Florida Statutes authorize detailed subpoena power to the DBF's divisions of Banking (Chapter 655, F.S.), Securities (Chapter 517, F.S.), and Finance (Chapters 494 and 560, F.S.), in the furtherance of these divisions' regulatory responsibility. In short, department divisions are authorized to issue, quash, or modify a subpoena or subpoena duces tecum under the seal of the department, or may cause the subpoena to be issued by any county court judge or clerk of the circuit court, to require persons to appear before the department, and to bring documents named therein in the furtherance of an investigation. In addition, the statutes provide remedial procedures for noncompliance on the part of the persons to which subpoenas were issued.

As the constitutional officer charged with the protection of state funds, the responsibility of the Comptroller to investigate and audit those handling state funds extends beyond the regulatory duties as the head of the DBF. Ironically, the authority of the Comptroller to issue subpoenas during audits involving state funds is not at a par with the subpoena power granted to divisions within the same department headed by the Comptroller. For instance, the Chapter 17, F.S., subpoena authority does not clearly provide for judicial intervention in the case of noncompliance with the subpoena, as does subpoena powers granted to the DBF's divisions of Banking, Finance, and Securities.

Direct Deposit of Retirement Funds

Under current law, all state retirees have the option of receiving benefits by paper warrant or electronic funds transfer ("EFT"). Currently, approximately 75 percent of state retirees receive their benefits via EFT. According to the DBF, the state pays approximately \$12,200 monthly in postage (\$.28 bulk rate) for mailing paper warrants to the 43,608 persons receiving benefits via the U.S. mail service. In contrast, the state "mails" funds electronically to the 127,280 persons receiving benefits via EFT at a cost of approximately \$2,550 monthly, or \$.02 per individual account.

Structure of the Department of Banking and Finance and its impact on Performance Based Budgeting

By law, the executive branch of the state's government is consolidated into 25 administrative units called "departments". With certain exceptions,¹ departments are statutorily consolidated into a number of units called "divisions." Divisions typically represent certain regulatory functions, or subject areas, of a department. For instance, the DBF's various functions are specified as seven statutory "divisions" within the department: Accounting and Auditing, Administration, Banking, Finance, Information Systems, Securities and Investor Protection, and Financial Investigations. Each division represents a separate budget entity within the state budget and as such receives a line-item appropriation to be used for the administration of that division. The department is in the process of reviewing the functions conducted by each of these divisions and identifying budget entity "programs" under which these functions will fall for the purposes of performance based budgeting, or PB2.²

The PB2 act requires each state agency to submit a list of its programs to the Executive Office of the Governor and the Legislature, according to the schedule provided by the act. This program list is then subjected to the review and approval process provided by law. Upon approval the state agency is then required to submit a performance-based program budget for each of its programs. The subsequently appropriated lump sums are then required to be distributed into traditional expenditure categories. Agency heads, and the Chief Justice, are authorized to transfer funds between traditional expenditure categories, with no limit on the amount of the transfer. No transfer from any other budget entity is authorized, except pursuant to the legislative review and approval process provided by law. The statutory authority to move resources around within a budget entity is an attempt to give state agency managers sufficient budgetary flexibility to meet performance measures and standards which have been approved by the Executive Office of the Governor and the Legislature.

According to the DBF, its current organizational structure restricts the agency's ability to efficiently manage resources in a performance-based environment. For example, the DBF's Division of Accounting and Auditing (A&A) utilizes personnel or services from the Division of Financial Investigations which results in an unanticipated drain on A&A's budgetary resources, but without the option to draw resources from Financial Investigations and into A&A to cover the expense.

¹Section 20.04(3), F.S., specifically exempts the Departments of Children and Family Services, Corrections, Management Services, Revenue, and Transportation from this internal structure formula. The Department of Legal Affairs, which is responsible for providing legal services required by any agency, is not specifically listed as an exempted agency, but is nonetheless organized with several division-like equivalents, such as:

- The Office of Statewide Prosecution - investigates and prosecutes statutory criminal and civil violations;
- The Office of Civil Rights - investigates and prosecutes violations of civil rights;
- The Florida Legal Resource Center - operates as a legal information sharing conduit for agencies, universities and special districts; and,
- The Medicaid Fraud Control Unit - investigates Medicaid provider fraud.

²Section 216.0166, F.S. (1998 Supp)

Statute of Limitations Period for Salary or Benefit Claims

Generally, a statute of limitation is a time limit within which legal proceedings must be started in a civil or administrative court after an action has occurred (accrual of a cause of action) for which an individual has the right to seek a remedy. Generally speaking, the last element constituting accrual of a cause of action is usually actual or constructive knowledge of an impairment of one's legal rights. Statutes of limitation are predicated on public policy and are designed to encourage plaintiffs to assert their causes of action with reasonable diligence, while witnesses are available, and memories of events are fresh. Limitation statutes further act as a shield protecting defendants against the necessity of defending stale claims which, because of their antiquity, would work a disadvantage on a defendant at trial.

State agencies and the State University System are statutorily required to establish procedures to receive, consider, and resolve pay or benefits claims. Current law imposes a two-year statute of limitation on such claims.³ The statutes were amended in 1997, to apply the two-year statute of limitation to cases in which an employee is damaged as a result of relying on erroneous written information provided by the agency regarding payment or benefits. For other cases regarding salary overpayment or underpayment there is confusion as to whether to apply a two-year, a four-year, or a five-year statute of limitation. In Nealon v. Right Human Resource Consultants, Inc., 669 So. 2d 1120 (Fla. 3d DCA 1996), the court held that the two-year statute of limitation for recovery of unpaid wages or overtime did not apply in an action for an unpaid bonus, which was perceived to be an unpaid salary, and therefore subject to a five-year statute of limitation.

Currently, the statutes do not specify what action is considered the "last element" constituting a cause of action in a salary underpayment or overpayment. For guidance, the DBF has relied upon an administrative rule promulgated by Department of Management Services which addresses the time period within which to bring a salary or benefit claim. That rule states that such a claim must be brought within two years of the date of the alleged erroneous payment. (See, Rule 60L - 8.004, Florida Administrative Code.)

Agency Head Approval for Travel and Related Expenses

Current law requires agency heads to personally approve per diem and travel expenses of public officers, employees and other authorized persons. The state has established rules and guidelines for travel and per diem expenses. Travel and per diem reports are routinely reviewed by administrative specialists. As the highest policy making authority of a public agency, the agency head is not always available to personally sign off on travel and per diem reports, which may result in delay in payment or reimbursement of such expenses.

Comptroller's Vendor Ombudsman and Annual Statement by Employees

Current law requires the name and telephone number of the Comptroller's vendor ombudsman to be printed on each purchase order issued by state agencies. While the telephone number has not changed, there have been four different ombudsmen since the law was enacted.

³Section 110.1165, F.S., cites s. 95.11(4), F.S. (1998 Supp.), as the statute of limitations for filing any action to recover salary, wages, overtime benefits, or related damages under this section.

Each employee who is responsible for approving and processing vendor's invoices or distributing warrants to vendors is required to sign an annual statement that he or she was provided a copy of the statute section (Section 215.422, F.S.), and rules promulgated by the Comptroller relating to warrants, vouchers and invoices. According to the department, each employee's training in these positions includes review of applicable statutes and rules regarding warrants, vouchers and invoices. It is the department's position that an annual statement to this effect is redundant and creates unnecessary work and filing expense.

Planning and Budgeting: Operating Capital Outlay (OCO) Thresholds

The state has in place a "comprehensive capital facilities planning and budgeting process", designed to enable the state to meet the needs of its infrastructure. The process directs all agencies and the judicial branch to: maintain inventories, assess trends that relate to public facilities, determine unmet goals by comparing existing facilities to goals and objectives, match funding options to facility needs to ensure effective development strategies, and maintain a management structure that serves to maintain, repair, renovate and replace capital facilities "to obtain the maximum value for each public dollar spent." (Section 216.015(3), F.S.)

Annually, each agency head and the Chief Justice of the Supreme Court is required to submit a legislative budget request reflecting the needs of the agency and the judicial branch for operational expenditures during the next fiscal year. Among other items, the report identifies the administrative and program costs expended from the trust fund including salaries, other personal services, *operating capital outlay*, fixed capital outlay, other expenses, contractual services, and transfers to other trust funds. (Section 216.031, F.S. (1998 Supp.))

In order to limit the amount of time and money agencies and the judicial branch spends maintaining records and performing inventories of low value items, s. 216.011, F.S. (1998 Supp), sets the current threshold for OCO and tangible personal property at \$500 and sets the threshold for hardback books at \$100. These thresholds have not been adjusted since they were set in 1989.

Noting the increase in costs, and therefore inventory values, the Comptroller believes that adjusting the personal property threshold to \$1,000, and the hardback book threshold to \$250 will bring those thresholds into line with the intent of the 1989 thresholds.

The Comptroller's office also points out that nothing in this section will prevent an agency or other organizational unit from continuing, maintaining or effecting an internal inventory plan.

Recording and Filing of State Financial Information

Every agency, and the judicial branch, is required to file its annual financial information with the Comptroller on or before September 30, for the purpose of preparing annual financial statements for the state. Statutorily, the Comptroller is required to prepare and "publish" annual financial statements for the state on or before December 31, and furnish a copy of these statements to the Governor, the President of the Senate, and the Speaker of the House. (Section 216.102, F.S.) The Auditor General has electronic access to the DBF's files regarding this financial data and performs a financial audit of the information in order to provide an opinion as to:

- the fairness with which the financial information is presented;

- the results of entity operations, any changes in the entity's financial condition in conformity with generally accepted accounting principles; and
- whether the entity's operations are conducted in accordance with legal and regulatory requirements; (Section 11.45, F.S.)

Due to the amount of information and the time constraints, the Auditor General has not completed its exhaustive financial audit by December 31, and the Comptroller publishes what is available at that time; unaudited financial statements containing beginning and ending balances for revenues and expenditures only.

Currently, when the Auditor General has completed the financial audit, the Comptroller publishes the results in a bound report titled "Florida Comprehensive Annual Financial Report" (CAFR), usually by February 28. The CAFR contains the very same financial statements which are "published" on or before December 31, but also contains the opinion of the Auditor General, fiscal notes, explanation for relevant legal issues, the schedule of bonded debt, operating liens, installment contracts, and other information that provides a more complete financial picture of the state. Although there is no current requirement to publish the CAFR, one of its most important applications is its use by bond-rating agencies⁴ to rate the state's financial soundness. The rating is an opinion by the bond rating agencies that sets the level of "risk" for state bonds, which has the effect of determining the amount of interest the state must pay on the bonds.

The State Automated Management Accounting Subsystem

In order to determine and disclose the financial position of the state, and the results of the financial operations of the funds and account groups of the state, the Legislature established the Florida Financial Management Information System (FFMIS). According to the DBF, FFMIS contains five subsystems which were created to provide information for the effective operation of state government. One such subsystem, the State Automated Management Accounting Subsystem (SAMAS), was created to provide: (1) accounting control over assets, liabilities, revenue, and expenditures; (2) DBF management, with budgetary control, while allowing subunits maximum autonomy; and (3) adequate resources for research and post audit requirements.

State-Owned Tangible Personal Property

Chapter 273, F.S., outlines the general duties and responsibilities of custodians of state-owned tangible personal property. For purposes of recording an inventory of such property, and in order to limit the amount of time and money spent maintaining records and performing inventories of low value items, s. 273.02, F.S., sets the threshold amounts for tangible personal property at \$500, and sets the threshold for hardback books at \$100.

Services Contracts Subject to Public Records Law

Chapter 287, F.S., outlines the process for the bidding and procurement of commodities, insurance, and contractual services for the state. Section 287.058, F.S. (1998 Supp.), outlines the statutorily required contract provisions that must be in every services contract in

⁴ For instance, Standard and Poor's Rating Services is recognized as a leader in risk evaluation, and provides ratings and analysis on the creditworthiness of securities issuers worldwide.

excess of \$15,000, with the exception of health or mental services provided pursuant to Chapter 440, F.S. For instance, all contracts must have provisions that:

- require that all bills for fees or expenses be submitted in detail sufficient for a pre-audit and post-audit;
- require that all bills for travel expenses be submitted in accordance with s. 112.061, F.S., which outlines per diem and travel expense schedules for state employees;
- permit unilateral cancellation by the state if the contractor refuses to allow public access to all documents subject to Chapter 119, F.S., and made or received by the contractor in conjunction with the contract;⁵
- require that the contract be divided into units of deliverables (i.e., reports, findings and drafts), which must be received and accepted by the contract manager prior to payment;
- set the criteria and the final date for completion of the contract; and
- permit renewing the contract on a yearly basis, based on statutory and contractual contingencies.

B. EFFECT OF PROPOSED CHANGES:

Subpoena Power of the Comptroller

The existing authority for the Comptroller to issue subpoenas would be augmented to a level at par with other sections of the Department of Banking and Finance, and would include, for instance, the explicit authority to seek judicial intervention to enforce compliance with lawfully issued subpoenas.

Direct Deposit of Retirement Funds

State employees who become eligible to receive retirement benefits after this law becomes effective would be required to receive benefits via EFT. An exemption could be granted after a showing by the retiree of a hardship in receiving benefits via EFT. Existing retirees would still have the option of receiving benefits by warrant or EFT.

Structure of the Department of Banking and Finance and its impact on Performance Based Budgeting

All references to the DBF's "divisions," would be removed from s. 20.12, F.S. The Office of Financial Investigations would be established, to operate as a "criminal justice agency" as defined in s. 943.045(10)(d). It would be an agency subunit that performs the administration of criminal justice, and would be a separate budget entity. This status provides the Office access to criminal intelligence information, and entitles the Office to participate in the forfeiture trust fund shared by law enforcement agencies. According to the department, this agency structure would provide greater flexibility in meeting the demands of performance based program budgeting.

Statute of Limitations Period for Salary or Benefit Claims

⁵ It is not clear whether this provision would apply to subcontractors, or other individuals hired by the contractor to perform services in furtherance of the services contract.

The statutes of limitations period for filing a wage or other benefit claim would remain two years. Rather than compute the limitations period using the formula provided in Chapter 95, F.S., (when the last element constituting the cause of action occurs), however, the limitations period would begin to run from the date the alleged erroneous payment of such compensation was made.⁶

Agency Head Approval for Travel and Related Expenses

Agency heads would be authorized to delegate approval of all administrative actions related to employee travel expenses and per diem expenses.

Comptroller's Vendor Ombudsman and Annual Statement by Employees

In order to limit paper waste and printing costs, the Department would print only the telephone number, but not the name, of the Comptroller's vendor ombudsman on purchase orders.

In addition, state employees responsible for the approval of processing vendor's invoices or distributing warrants to vendors would no longer be required to sign an annual statement that he or she was provided a copy of the statute section (Section 215.422, F.S.) and rules promulgated by the Comptroller related to warrants, vouchers and invoices.

Planning and Budgeting: Operating Capital Outlay (OCO) Thresholds

The OCO tangible personal property threshold would be increased from \$500 to \$1,000 and hardbound book threshold would be increased from \$100 to \$250 in order to relieve the administrative requirement that state agencies maintain records, and perform inventories of low value items.

Recording and Filing of State Financial Information

The Comptroller would no longer be required to "publish" the unaudited financial statements by December 31 of each year, but would be required to prepare and furnish the state's financial statements to the Auditor General by that date.⁷ In addition, the Comptroller would be required to publish the CAFR, and provide copies to the Governor, the President of the Senate, and the Speaker of the House by February 28, annually.

The State Automated Management Accounting Subsystem

The State Automated Management Accounting Subsystem would be renamed the Florida Accounting Information Resource Subsystem.

State-Owned Tangible Personal Property

⁶ This would, in effect, codify a Department of Management Services' rule addressing when a salary and benefit underpayment or overpayment claim may be brought. See, Rule 60L-8.004, Florida Administrative Code.

⁷According to the department, the December 31 financial statements would still be made available upon request.

The recording threshold amounts for inventory of tangible personal property would be increased from \$500 to \$1,000 and hardbound book threshold would be increased from \$100 \$250 in order to relieve the administrative burden on state agencies to maintain records and perform inventories of low value items. This adjustment would mirror the amendment proposed to s. 216.011, F.S., in this bill, which sets the recording threshold amounts for OCO and tangible personal property for planning and budgeting for the state.

Services Contracts Subject to Public Records Law

The provision permitting unilateral cancellation for refusal by the contractor to allow public access to documents and/or other material directly received or made in connection with the contract would be expanded to include *all* documents and/or other material made or received by a contractor, subcontractor, or any other person connected with the services contract in excess of \$15,000. Such documents would be considered public records, and subject to the provisions of Chapter 119, F.S. This provision is further amended to require that every written agreement between a contractor and subcontractor, or between a subcontractor and other parties performing services relating to the contract must have a provision permitting unilateral cancellation for refusal to allow public access to all documents made or received in connection with the contract.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill requires all state services contracts in excess of \$15,000, whether the contracts are between the state and a contractor, or a contractor and subcontractor or other person, to contain a provision allowing for unilateral cancellation for refusal to allow public access to all documents received or made in connection with the contract.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires all state services contracts in excess of \$15,000, whether the contracts are between the state and a contractor, or a contractor and subcontractor or other person, to contain a provision allowing for unilateral cancellation for refusal to allow public access to all documents received or made in connection with the contract.

The bill removes the requirement that the Comptroller "publish" financial statements by December 31, but requires the Comptroller to furnish them to the Auditor General by that date. The bill requires the Comptroller to

publish the Comprehensive Annual Financial Report (CAFR) by February 28, annually.

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

Not applicable.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 17.05, s. 17.076, s.17.11, s. 20.04, s. 20.12, s. 110.1165, s. 112.061, s. 215.3206, s. 215.3208, s. 215.422, s. 216.011, s. 216.102, s. 216.183, s. 216.212, s. 216.237, s. 273.02, s. 280.08, s. 287.058, s. 288.778, s. 494.0011, s. 494.0017, s. 494.0041, s. 494.00421, s. 494.0061, s. 494.0062, s. 494.0072, s. 497.407, s. 497.435, s. 516.03, s. 520.998, s. 655.90, and s. 655.942, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 17.05, F.S., augmenting the existing authority for the Comptroller to issue subpoenas to a level at par with other sections of the Department of Banking and Finance and would include, for instance, the explicit authority to seek judicial intervention to enforce compliance with lawfully issued subpoenas.

Section 2. Amends s. 17.076, F.S., requiring state employees who become eligible to receive retirement benefits after this law becomes effective to receive such benefits via EFT. The DBF has the authority to grant an exemption after a showing by the retiree of a hardship in receiving benefits via EFT. Existing retirees would still have the option of receiving benefits by warrant or EFT.

Section 3. Amends s. 20.12, F.S., removing provisions creating divisions within the DBF, and establishes the Office of Financial Investigations, which will operate as a

“criminal justice agency” as defined in s. 943.045(10)(d) -- an agency subunit that performs the administration of criminal justice and which shall be a separate budget entity. The DBF is added to the list of agencies that are exempt from the agency structure mandated by s. 20.04, F.S. This section is set to repeal January 7, 2003.

Section 4. Amends s. 20.04, F.S., adding the DBF to the list of agencies that are exempt from the agency structure mandated by s. 20.04, F.S.

Section 5. Amends s. 110.1165, F.S., establishing that the two-year statute of limitation period for filing a wage or other benefit claim by a state employee or the state would be computed from the actual date the alleged erroneous payment was made.

Section 6. Amends s. 112.061, F.S. (1998 Supp), permitting agency heads to delegate authority to approve employee travel expenses and per diem expenses.

Section 7. Amends s. 215.422, F.S., requiring the department to print only the telephone number of the Comptroller’s vendor ombudsman on purchase orders; removing the requirement that state employees responsible for the approval or processing of vendors’ invoices or distributing warrants to vendors sign an annual statement that he or she was provided a copy of the statute section and rules promulgated by the Comptroller related to warrants, vouchers and invoices; renaming the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem.

Section 8. Amends s. 216.011, F.S. (1998 Supp), increasing the OCO tangible personal property threshold from \$500 to \$1,000, and increasing the hardbound book threshold from \$100 to \$250.

Section 9. Amends s. 216.102, F.S., no longer requiring the Comptroller to publish the unaudited financial statements by December 31 of each year, but requiring the Comptroller to continue to prepare the state’s financial reports and furnish them to the Auditor General by that date; requiring the Comptroller to publish the CAFR, and provide copies to the Governor, the President of the Senate, and the Speaker of the House by February 28, annually; renaming the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem.

Section 10. Amends s. 216.102(2), F.S., as amended by chapter 95-312, Laws of Florida, renaming the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem.

Section 11. Amends s. 273.02, F.S., increasing the inventory recording threshold amounts for tangible personal property from \$500 to \$1,000, and increasing the hardbound book threshold from \$100 to \$250.

Section 12. Amends s. 287.058, F.S. (1998 Supp), providing that *all* documents and/or other material made or received by a contractor, subcontractor, or any other person that is directly related to a state services contract in excess of \$15,000 are public documents subject to the provisions of Chapter 119, F.S.; requiring every written agreement between a contractor and subcontractor, or between a subcontractor and other parties performing services relating to the contract must contain a provision permitting unilateral

cancellation for refusal to allow public access to all documents that are made or received in connection with the contract.

Sections 13 through 18. Amends s.17.11, F.S., s. 215.3206, s. 215.3208, s. 216.183, s. 216.212, and s. 216.237, renaming the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem.

Sections 19 through 33. Amends s. 280.08, s. 288.778, s. 494.0011, s. 494.0017, s. 494.0041, s. 494.00421, s. 494.0061, s. 494.0062, s. 494.0072, s. 497.407, s. 497.435, s. 516.03, s. 520.998, s. 655.90, and s. 655.942, F.S., replacing references to the DBF divisions throughout the statutes with the proper, conforming modifier.

Section 34. Provides an effective date of October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

See Part III.D., FISCAL COMMENTS section.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

Unknown.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate. All documents or other materials that are received or made in connection with a state services contract in excess of \$15,000, irrespective of who has possession, shall be considered public documents subject to Chapter 119, F.S. All contracts and subcontracts that are connected with the state services contract must have a clause permitting unilateral cancellation for an entity's refusal to provide access to such documents and materials.

D. **FISCAL COMMENTS:**

According to the DBF, approximately 13,000 new retirees are added to the retirement payroll each year. This bill requires all new retirees to be paid by Electronic Funds Transfer, beginning July 1, 2000. The DBF incurs a charge of approximately 2 cents for each electronic transaction, which is for access to the Automated Clearing House, pursuant to its contract with the financial institution providing the service. This reduced transaction cost, however, is offset by the costs of preparing and mailing warrants to retirees (bulk rate for postage alone is 28 cents per mail item). These costs will be eliminated with payments made by Electronic Funds Transfer.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

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

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

According to Article III, section 6, of the Florida Constitution, every law shall have only one subject. There is a question as to whether "relating to state financial matters" adequately covers the range of amendments made by the bill to the administrative and fiduciary responsibilities of the Comptroller over such matters. Arguably, each provision of the bill relates to a financial function of the state that is ultimately administered by the Comptroller through the Department of Banking and Finance.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 20, 1999, the Financial Services Committee adopted three amendments offered by the bill's sponsor, Representative Flanagan, and reported the bill as a committee substitute.

- The first amendment (1) deleted references to the various DBF divisions in Section 20.12, F.S., and in their place established the Office of Financial Investigations; (2) added the DBF to the list of agencies that are exempt from the agency structure mandated by s. 20.04, F.S.; and, (3) set these sections to repeal on January 7, 2003, to accommodate the constitutional revision affecting the Comptroller and the Treasurer.
- The second amendment (1) removed superfluous language referring to who might have possession of documents that are received or created in relation to a state contract that is above a certain monetary threshold and which is subject to Part I of Chapter 287; and, (2) specified that the created documents must be directly related to the contract.
- The third amendment (1) renamed the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem throughout the statutes; and, (2) removed references to the DBF divisions throughout the statutes and replaced these with the proper modifier.⁸

⁸ The third amendment makes changes to s. 216.102, F.S., renaming the State Automated Management Accounting Subsystem to the Florida Accounting Information Resource Subsystem there, and in other sections throughout Florida Statutes. In 1995, s. 216.102, F.S., was amended by two separate bills which were substantially similar but not identical. According to the footnote to s. 216.102, F.S., the statute text was the "last expression of legislative will" and the footnote includes the text of the other bill that passed. This current amendment seeks to amend the text of s. 216.102, F.S., and make corresponding changes in the footnote to the statute section. Rather than amend a statute section and a footnote and perpetuate an arguable inconsistency in statute, staff recommends a separate amendment be drafted that rewrites the whole of s. 216.102, F.S., to eliminate the footnote.

STORAGE NAME: h0077s1.go

DATE: February 8, 1999

PAGE 18

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Staff Director:

Michael A. Kliner

Susan F. Cutchins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Russell J. Cyphers, Jr.

Jimmy O. Helms