

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1335 w/CS State and Local Government Travel and Per Diem Expenses  
**SPONSOR(S):** Ausley; Richardson  
**TIED BILLS:** none **IDEN./SIM. BILLS:** CS/SB 2672, 1st Eng.

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration	6 Y, 0 N w/CS	Bond	Everhart
2) Appropriations			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

Current law provides fixed per diem amounts that persons traveling on official business for the state or for a local government may be reimbursed for travel costs incurred. This bill provides ranges within which the state and local governments may separately set uniform per diem rates. This bill further provides for future increases to the ranges based on changes to the Consumer Price Index.

This bill does not appear to have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: Not applicable.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background - Per Diem for Meals and Lodging

Section 112.061, F.S., sets travel reimbursement rates for persons traveling on official business on behalf of the state or a local government. Subsection (6) sets rates of per diem and subsistence allowance, which rates were last changed in 1981. This subsection provides for a traveler to elect to receive \$50 per day, or actual expenses for lodging plus a meal allowance. The meal allowance amounts also apply to day trips,<sup>1</sup> and are:

Breakfast	\$3
Lunch	\$6
Dinner	\$12

##### Background - Mileage Rate

Section 112.061(7)(d)1., F.S., sets the mileage reimbursement rate for state and local government travel at 29¢ per mile. This rate was established by ch. 94-139, effective July 1, 1995. The IRS sets a maximum mileage rate; paying in excess of that rate is not prohibited, but any amount paid in excess of that rate is considered taxable income to the recipient. For calendar year 2002, the rate was 36.5¢ per mile.<sup>2</sup>

##### Effect of Bill

This bill provides that, commencing in fiscal year 2003-2004, the rate of per diem for subsistence and mileage for state travelers under s. 112.061, F.S., is to be set by Cabinet officers for their respective departments, by the Governor for all other executive branch agencies, by the Chief Justice for the judicial branch, and by the legislative leaders for the legislative branch. The rate of subsistence is to be set within the following ranges:

Daily rate	\$50 to \$94 per day
Breakfast	\$3 to \$5
Lunch	\$6 to \$11
Dinner	\$12 to \$22
Mileage	29¢ to 37¢ per mile

<sup>1</sup> Day trips are known as "Class C Travel". For FY 2001-2002, and FY 2002-2003, no reimbursement for meals was provided for Class C Travel.

<sup>2</sup> The IRS Commissioner announces the mileage rate applicable to a calendar year near the end of that year. Thus, the 2003 rate is not currently available.

This bill provides that, commencing June 1, 2003, the rate of per diem for subsistence and mileage may be set by local governments. The bill specifies that each county constitutional officer for her or his department, the county commission for all other county departments, and the district school board for school board travel, sets its own rate. The rate of per diem for subsistence and mileage must be set within the following ranges:

Daily rate	no more than \$94 per day
Breakfast	no more than \$5
Lunch	no more than \$11
Dinner	no more than \$22
Mileage	no more than 37¢ per mile

On June 1, 2005, and annually thereafter, the Department of Financial Services must, by rule, adjust the ranges to reflect the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, using June 1, 2003 as a baseline. Subsistence amounts are to then be adjusted downward to the nearest whole dollar, and the mileage amount adjusted downward to the nearest whole cent.

Any per diem rate must be uniformly applied to all travelers.

C. SECTION DIRECTORY:

Section 1 amends s. 112.061, to provide ranges for per diem and mileage reimbursement.

Section 2 provides an effective date of June 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

None. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures:

None. See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

The provisions of this bill are permissive in nature, not mandatory. Thus, there is no required increase in expenditures required by this bill.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other: None.

#### **B. RULE-MAKING AUTHORITY:**

This bill provides clear rulemaking authority in the Department of Financial Services, following a specific standard. The provision appears to comply with the requirements for rulemaking.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Attorney General Opinion 74-18 stated that, pursuant to the Municipal Home Rule Powers Act, a municipality could enact per diem and travel allowances that vary from s. 112.061, F.S. Attorney General Opinion 2003-01 reversed this earlier decision, finding that municipalities may vary from the rates established by s. 112.061, F.S., but could not exceed them. While this bill does not specify who in municipal government would make the decision as to the per diem rate applicable to the municipality, it appears that the effect of this bill would be that municipalities could establish per diem rates anywhere within the ranges applicable to all of local government.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 23, 2003, the Committee on State Administration adopted one "remove everything after the enacting clause" amendment. By the amendment, the bill is substantially similar to the Senate companion. The amendment addressed the drafting issues identified by the committee in a previous analysis. The bill required increases in the standard per diem rates that were applicable to the state and local governments. By the amendment, increases to the per diem rates are permissive and set by each branch of state government, each local school board, each constitutional officer in the counties, and by every other local government. Rates must be uniformly applied to all travelers. The bill was then reported favorably with a committee substitute.