

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 558

SPONSOR: Senators Bennett and Lynn

SUBJECT: Automated Telephone Answering Systems

DATE: March 8, 2004                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Wilson	GO	Favorable
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Section 110.1082, F.S., currently prohibits a state employee from utilizing a voice mail system when the employee is available to answer the phone and requires state agencies to provide telephone menu options that access nonelectronic attendants.

The bill would repeal s. 110.1082, F.S., and would create a new s. 282.108, F.S., to: (a) continue the prohibition on the use of voice mail systems when state employees are available to answer the phone; (b) require state agency telephone menu options to promptly permit a caller during regular hours of operation to reach an agency employee who is trained to answer basic inquiries or to refer the caller to someone appropriate to respond to the caller’s request; (c) require state agencies to dedicate at least two phone lines to implement the section’s responsibilities; (d) require state agencies to monitor on-hold times, with the goal of an average response time of 5 minutes or less; and (e) require the State Technology Office (STO) to report on state agency progress in reducing reliance on automated telephone answering systems.

This bill creates s. 282.108 of the Florida Statutes and repeals s. 110.1082 of the Florida Statutes.

**II. Present Situation:**

In 1999, the Legislature enacted s. 110.1082, F.S.,<sup>1</sup> to prohibit a state employee from utilizing a voice mail system when the employee is at his or her regularly assigned work station and where his or her telephone is functional and available for use, unless: (a) the device is in use; (b) the voice mail system alerts the caller to, and provides the caller with access to a nonelectronic attendant; or (c) the voice mail system automatically transfers the caller to a nonelectronic

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<sup>1</sup> Chapter 99-255, L.O.F.

attendant. Further, this section of law requires that telephone menu option systems used by state agencies,<sup>2</sup> departments, or other state government units alert the caller to, and provide the caller with access to, a nonelectronic attendant. Agency heads are required to ensure compliance with the provisions of this section.

### III. Effect of Proposed Changes:

**Section 1.** The bill creates s. 282.108, F.S. Legislative findings are set forth in subsection (1), which provide that: (a) there are times when it is important that employees, rather than an automated system, answer the telephone at a state agency; (b) citizens of this state have expressed concern that state agencies improperly rely on voice mail and other automated telephone answering systems to screen calls and direct callers; (c) some systems require callers to proceed through several menus before finally reaching an individual extension or operator; and (d) while automated telephone systems are intended to improve efficiency, the state's first duty is to serve the people and efficiency should not impede the public from contacting a state agency for a service or information.

In subsection (2), the following definitions are provided:

- "Automated telephone answering system" or "interactive voice response" means a software application that accepts a combination of voice telephone input and touch-tone keypad selection and provides appropriate responses in the form of a voice, fax, callback, e-mail, and other media response.
- "Menu" means the first point in the telephone call at which the caller is asked to choose from two or more options, regardless of whether that choice is referred to as a menu, router, or other term within the telephone industry.

In subsection (3), state agencies are required to provide a menu option to promptly reach an agency employee when the agency uses an interactive voice response system or an automated telephone answering system. The agency employee must be trained to respond to basic inquiries or to direct the caller to someone appropriate to respond to the caller's request for information. State agencies are also directed to: (a) allocate a minimum of two telephone lines to handle the section's responsibilities; and (b) monitor on-hold times, with the goal of an average response time of 5 minutes or less.

For purposes of ch. 282, F.S., the term "state agency" or "agency" means:

[A]ny official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, "state agency" or "agency" includes, but is not limited to, state attorneys, public defenders, the capital collateral regional counsels, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of

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<sup>2</sup> For purposes of ch. 110, F.S., the term "state agency" or "agency" means, "any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government as defined in chapter 216." Section 110.107(4), F.S.

implementing s. 19(h), Art. III of the State Constitution, the terms "state agency" or "agency" include the judicial branch.

In subsection (4), the bill provides that state employees may not use automated telephone answering systems when the employee is at his or her work station if his or her telephone is functional and available, unless: (a) the telephone is in use; (b) the automated telephone answering system provides the caller with the option of promptly reaching an agency employee who can direct the caller to someone appropriate to respond to the caller; and (c) the automated telephone answering system automatically transfers the caller to someone appropriate to respond to the caller's request.

In subsection (5), the bill requires the State Technology Office to adopt rules to establish standards for employees answering telephones and to ensure that each agency establishes an internal procedure for answering telephone calls in compliance with the section's requirements. The State Technology Office is directed to report to the Governor and Legislature on the standards adopted in rule and on the progress state agencies have made in reducing reliance on automated telephone answering systems as required by the section.

**Section 2.** The bill provides that the act shall be implemented by state agencies using existing personnel and within existing resources.

**Section 3.** The bill repeals s. 110.1082, F.S., which currently addresses telephone answering by state agencies.

**Section 4.** The bill provides that it takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill may result in members of the public who call state agencies being: (a) able to more quickly reach a state employee; and (b) on-hold for a shorter period of time.

**C. Government Sector Impact:**

The bill provides that its requirements are to be implemented with existing resources. Accordingly, it is not necessary for the Legislature to appropriate funds in order for this bill's provisions to be effective.

Fiscal analyses for this bill provided by the following agencies project a fiscal impact:

- The Department of Business and Professional Regulation reports that if the option to dial zero to speak with an employee is selected by all callers that it would need from two to thirteen new positions to answer the incoming calls.
- The Department of Elder Affairs estimates it would need to hire 34 new employees for an annual cost of \$708,288.
- The Department of Financial Services reports that it may need additional staff to comply with the bill's goal of average response times less than 5 minutes.
- The Department of Transportation indicates that it would need to increase staffing for its Customer Service Center from 84 to 150 positions, which would cost \$2,310,000.
- The State Technology Office indicates that it would need two new full time employees.

Fiscal analyses for this bill provided by Agency for Workforce Innovation and Departments of Citrus, Law Enforcement, Management Services, and Military Affairs indicate that these agencies will not incur a fiscal impact.

A fiscal analysis for this bill provided by the Agency for Health Care Administration indicates that the agency, itself, would have no fiscal impact as a result of this bill; however, if the bill were construed to apply to the agency's contract vendors, there would be a fiscal impact, which to date is indeterminate.

**VI. Technical Deficiencies:**

In paragraph (2)(a), the bill defines the terms "automated telephone answering system" and "interactive voice response" as meaning the same type of answering systems. The bill then uses both terms in some subsections and only one term in other subsections. For clarity, it may be desirable to amend the bill to specify only one of these terms and to then use that term consistently. Further, the bill defines these terms as requiring both voice telephone input **and** touch-tone keypad selection, and requiring voice, fax, callback, **and** e-mail responses. It may be the case, however, that an answering system may have some, rather than all of these features. In order to ensure comprehensive applicability of the bill's requirements, it may be desirable to amend the bill to provide "or" rather than "and" when discussing these features.

In paragraph (3)(a), the bill provides that state agencies shall monitor on-hold times, with the goal of an average response time of 5 minutes or less. The bill does not define the phrase “on-hold time,” nor does it define the phrase “average response time.” These phrases appear to be susceptible to multiple interpretations. For example, “on-hold time” could be construed as any time when a caller is not speaking with a person and/or it might be construed as any time that the caller is not interacting with options provided by an automated telephone system. The phrase “average response time” might mean the time it takes to reach any agency employee or the time it takes to receive a response to a caller’s particular request. Clarification of these phrases may be desirable, particularly given that the bill requires monitoring of on-hold times and encourages average response times of five minutes or less.

In sub-paragraph (3)(c)1., the bill provides that all state agencies must have reprogrammed their answering systems to comply with the bill’s requirements by January 1, 2005. Additionally in sub-paragraph (3)(c)2., the bill separately provides that no state agency may purchase an answering system that fails to comply with the bill’s requirements after January 1, 2005. These separate sub-paragraphs can be eliminated and the same result achieved by amending the first sentence in paragraph (3)(a) of the bill to begin with, “On or before January 1, 2005, each state agency shall . . . .”

In paragraph (5)(a), the bill directs the STO to adopt rules that establish standards for employees answering telephones; however, the bill does not provide any further guidance as to what these standards should be. Rules may only be adopted pursuant to specific statutory authority.<sup>3</sup> As such, it may be desirable to amend the bill to provide more specific guidance regarding what the standards should provide. The bill further directs the STO in paragraph (5)(a) to adopt rules that require state agencies to comply with paragraph (3) (a) of the bill. Such rules would be unnecessarily duplicative of the fact that paragraph (3)(a), if enacted, will require such compliance.

In paragraph (5)(d), the bill directs the STO to submit a report by July 1, 2005, to the Governor and Legislature that details the progress that state agencies have made in reducing reliance on automated telephone answering systems; however, the intent of the bill appears to be to require state agencies to provide prompt access to an actual person in its answering system menu and to reduce average on-hold times to less than five minutes, rather than to require state agencies to reduce their use of answering systems. Thus, it may be desirable to amend the bill to more specifically provide that the report must document: (a) the actions taken by state agencies to comply with the bill’s requirements; (b) the average on-hold times in state agencies; and (c) plans for future action that may be taken by agencies to reduce on-hold times in excess of 5 minutes.

## **VII. Related Issues:**

The bill applies only to state agencies. It does not state that it applies to agents of such agencies. As a result, it does not appear that private companies answering public telephone calls on behalf of state agencies pursuant to state outsourcing contracts would be subject to this bill.

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<sup>3</sup> Section 120.536, F.S.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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