

**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: CS/SB 2084

INTRODUCER: Governmental Oversight and Accountability Committee and Governmental Oversight and Accountability Committee

SUBJECT: State Employment

DATE: February 24, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Seay</u>	<u>Roberts</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>McSwain</u>	<u>Rhodes</u>	<u>BC</u>	<u>Pre-meeting</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill is comprised of the Department of Management Services' legislative package for the Department's Division of Human Resource Management. The bill makes numerous changes to the state employment statutes contained in chapters 110 and 112, Florida Statutes. The bill includes a reorganization of the statutes governing state employment, making predominantly technical and clarifying changes. Some of the more notable changes include:

- Permitting the Department of Management Services to charge any state government entity outside the State Personnel System who receives or utilizes services of more than a *de minimis* value from the People First System;
- Modifying language relating to the implementation of furloughs;
- Providing a \$1000 cap on bonus payments to an employee per fiscal year;
- Removing the 1,040 hour annual cap for OPS employees;
- Transferring the administration of the alternative retirement benefit program for OPS employees from the Department of Management Services to the Department of Financial Services;
- Clarifying the pay additive implementation process;

- Providing agencies with greater flexibility to implement telework plans;
- Replacing references to the “Career Service” with “Civil Service” to comport with the language in Article III, Section 14 of the State Constitution;
- Removing the Administration Commission rule approval requirement for six provisions currently in statute;
- Defining the “State Personnel System”; and
- Removing a statutory provision allowing Career Service employees to retain regular or special compensatory leave credits upon appointment to a Selected Exempt Service position.

This bill amends the following sections of the Florida Statutes: 110.105, 110.1056, 110.1099, 110.112, 110.116, 110.1245, 110.125, 110.126, 110.127, 110.205, 110.211, 110.213, 110.2135, 110.215, 110.217, 110.219, 110.221, 110.224, 110.227, 110.401, 110.402, 110.403, 11.13, 20.055, 20.21, 20.23, 20.255, 24.105, 24.122, 30.071, 43.16, 104.31, 106.24, 112.044, 112.0805, 112.313, 112.3145, 112.363, 121.021, 121.051, 121.055, 121.35, 145.19, 216.011, 216.181, 260.0125, 287.175, 295.07, 295.09, 296.04, 296.34, 381.00315, 381.85, 394.47865, 402.3057, 402.55, 402.7305, 402.731, 409.1757, 409.9205, 414.37, 427.012, 440.102, 447.203, 447.203, 447.207, 447.209, 447.401, 456.048, 551.116, 570.07, 601.10, 624.307, 624.437, 627.6488, 627.649, 627.6498, 627.6617, 627.6686, 849.086, 943.0585, 943.059, 945.043, 946.525, 985.045, 1001.705, 1001.706, 1001.74, 1002.36, 1012.62, 1012.79, 1012.88, and 1012.96.

This bill transfers, renumbers, and amends the following sections of the Florida Statutes: 110.107, 110.405, 110.233, 110.235, 110.2037, 110.601, 110.602, 110.605, 110.131, 110.1315, 110.1221, 110.122, 110.121, 110.119, 110.120, 110.1091, 110.151, 110.1225, 110.1155, 110.191, 110.1082, 110.1165, 110.113, 110.1127, 110.117, 110.1227, 110.1228, 110.123, 110.12301, 110.12312, 110.1232, 110.161, 110.501, 110.502, 110.503, and 110.504.

This bill transfers and renumbers the following sections of the Florida Statutes: 110.1128, 110.181, 110.114, 110.1156, 110.12302, 110.12315, 110.1234, 110.1238, and 110.1239.

This bill creates the following sections of the Florida Statutes: 110.1065, 110.1135, 110.183, 110.184, 110.202, 110.208, 110.2085, 110.3023, 110.4035, 112.906, 112.910, 112.911, 112.927, 112.930, 112.931, 112.933, 112.952, and 112.965,

This bill repeals the following sections of the Florida Statutes: 110.115, 110.118, 110.124, 110.129, 110.1521, 110.1522, 110.1523, 110.171, 110.201, 110.2035, 110.21, 110.406, 110.603, 110.604, and 110.606.

## **II. Present Situation:**

### **Department of Management Services**

The Department of Management Services (DMS) is the state’s chief agency responsible for the administration of the state employment system. The 1992 Legislature created DMS by consolidating the Department of Administration and the Department of General Services.<sup>1</sup> The Department’s Division of Human Resource Management provides human resource policies,

<sup>1</sup> Chapter 92-279, Laws of Florida.

practices and strategies to State Personnel System agencies.<sup>2</sup> Individual agencies retain authority to customize the guidance to suit their department's needs.

State employees belong to various personnel systems, with each system having its own rules and regulations, collective bargaining agreements and wage and benefit packages. The six primary state government employers include the State Personnel System (SPS), the State Universities, the Justice Administration System, the State Courts System, the Legislature, and the Florida Lottery. The SPS consists of employees in the Career Service, the Selected Exempt Service, and the Senior Management Service. The SPS is the largest state government employer, consisting of roughly 65 percent of all state employees.<sup>3</sup> The majority of the positions within the SPS fall within the Career Service.<sup>4</sup>

### ***“Service First”* Legislation**

The most recent set of significant changes to the statutes governing the state employment system occurred during the 2001 legislative session. That year, the Legislature enacted numerous changes to Chapters 110 and 112 through the *Service First* initiative.<sup>5</sup> Those changes removed designated positions from the civil service; increased benefit compensation for named, exempt positions; banned political considerations in civil service actions; altered appellate rights in personnel disciplinary cases; and made retention decisions during reduction in force actions a function of overall fitness considerations rather than longevity of prior employment. In the years following enactment of the *Service First* legislation, several inefficient practices and procedures have developed that require revisions to the current statutory authority.

### **Furloughs**

A furlough is a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay.<sup>6</sup> State agencies are permitted to impose furloughs on employees in response to a projected deficit in funds that support salary and benefit costs.<sup>7</sup> Agencies may only furlough employees when the Revenue Estimating Conference projects a deficit.<sup>8</sup> As the Florida Constitution requires the State to have a balanced budget each fiscal year, a formal deficit never exists. Despite budget shortfalls in recent fiscal years, agencies have not been able to implement furloughs due to the current statutory language.

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<sup>2</sup> Division of Human Resource Management, Department of Management Services, [http://www.dms.myflorida.com/human\\_resource\\_support/human\\_resource\\_management](http://www.dms.myflorida.com/human_resource_support/human_resource_management) (last visited Jan. 17, 2012).

<sup>3</sup> Department of Management Services, Division of Human Resource Management, Fiscal Year 2010-2011 Annual Workforce Report (at pg. 14), available at [http://www.dms.myflorida.com/human\\_resource\\_support/human\\_resource\\_management](http://www.dms.myflorida.com/human_resource_support/human_resource_management).

<sup>4</sup> *Id.* at 17.

<sup>5</sup> Chapter 2001-43, Laws of Florida.

<sup>6</sup> Section 110.107(3), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

### **Transfer of Accumulated Compensatory Leave**

Compensatory leave is earned for time worked in excess of the standard 40 hour week. The compensatory leave earned may be transferred across state agencies as employees change locations and employers. As a result of the 2001 *Service First* legislation, several thousand Career Service employees had their positions involuntarily moved from the Career Service to the Selected Exempt Service. As employees were moved into different personnel systems, the value of their previously accumulated leave was also moved. This statutory provision was intended to be a temporary measure during the *Service First* implementation to prevent loss of compensatory leave credits for the large number of Career Service employees whose positions were involuntarily transferred to the Selected Exempt Service. As a result, the special compensatory leave could be paid at the later, potentially higher rate rather than based on the employee's rate of pay when the compensatory leave was actually earned.

### **Bonus Payments and Other Rewards**

Section 110.1245, F.S., allows for department heads to authorize expenditures for awards such as framed certificates, pins, or other tokens to state employees who have demonstrated satisfactory service to the agency or to the state. These awards currently may not exceed \$100 per employee.<sup>9</sup> Currently, there is no cap on the number of \$100 awards that can be given to an employee in a fiscal year. The cost of discretionary awards are absorbed through the agency's existing budget and do not require additional appropriations.

### **Administrative Costs and Human Resource Information System**

People First is the State of Florida's web-based personnel information system and online suite of human resources services. The system accommodates state agency functions including payroll preparation, attendance and leave, recruitment, benefits administration, human resources management, and organizational management.

The Department of Management Services has direct oversight over the state's People First contract. Currently, the administrative costs of the People First system are primarily funded by State Personnel System agencies. Although the People First system is funded through only State Personnel System agencies, many other governmental entities are currently using the system without paying any charge.

### **Other Personal Services (OPS) Employment**

Agencies may hire individuals in other personal services (OPS) temporary employment when certain vacancies exist. Section 110.131(1), F.S. establishes a 1,040 hour annual cap for each OPS employee. Any extension beyond the 1,040 hour limitation for each individual requires a recommendation by the agency head and approval by the Executive Office of the Governor.<sup>10</sup> The Department of Management Services is required to perform an annual review to assess agencies for the regulation of other personal services employment.<sup>11</sup>

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<sup>9</sup> Section 110.1245(3)-(5), F.S.

<sup>10</sup> Section 110.131(2), F.S.

<sup>11</sup> Section 110.131(7), F.S.

Agencies have the option of offering alternative retirement benefits to OPS employees. Individual agencies may implement an alternative retirement income security program for OPS employees upon review and recommendation of the Department of Management Services and the Governor.

### **Pay Additives**

State Personnel System agencies are permitted to use pay additives. Pay additives include: shift differentials; on-call fees; hazardous-duty pay; salary increase and decrease corrections; lead-worker pay; temporary special duties pay; trainer-additive pay; competitive area differentials; and critical market pay.<sup>12</sup> The pay additives must be consistent with Department of Management Services' guidelines and the directions of the Legislature contained in the General Appropriations Act.<sup>13</sup>

The employing agency must notify the Department of Management Services, the Executive Office of the Governor, and the Legislature in writing of the plan to implement any pay additives before any scheduled start date.<sup>14</sup> Agencies are restricted from implementing any pay additives unless the Legislature has specifically authorized the specific pay additives and their implementation do not conflict with any collective bargaining agreements.<sup>15</sup>

### **Probationary Employees**

Any employee who has satisfactorily completed at least a 1-year probationary period in his or her current position may be suspended or dismissed only for cause.<sup>16</sup> Career service employees are subject to suspension, reduction in pay, transfer, layoff, demotion, and dismissal.<sup>17</sup> Current law prescribes that cause includes, but is not limited to, poor performance, negligence, inefficiency or inability to perform assigned duties, insubordination, violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime.<sup>18</sup> The Department of Management Services has established rules and procedures governing the probation of Career Service employees.<sup>19</sup>

The 2008 Legislature passed legislation enabling career service employees serving in a probationary period in a position to which he or she has been promoted to be removed from the promotional position anytime during the probationary period but must be returned to his or her former position, or a comparable position, if such a position remains vacant.<sup>20</sup> An employee who is dismissed during his or her probationary period is not entitled to hearing rights before the

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<sup>12</sup> Section 110.2035(6)(c), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Section 110.227(1), F.S.

<sup>17</sup> Section 110.227(2)(a), F.S.

<sup>18</sup> Section 110.227(1), F.S.

<sup>19</sup> Section 110.227(2)(a), F.S.

<sup>20</sup> Section 1, ch. 2008-126, L.O.F.; Section 110.227(8), F.S.

Public Employee Relations Commission (PERC).<sup>21</sup> However, the First District Court of Appeal has ruled that the effect of the 2008 provision is that, in some circumstances, an employee who is fired during the probationary period subsequent to a promotion is entitled to hearing rights before PERC.<sup>22</sup>

### **Rulemaking**

The Administration Commission is comprised of the Governor and the three members of the Cabinet.<sup>23</sup> The Administration Commission is currently responsible for approving several rules grounded in Chapter 110 of the Florida Statutes – those rules relate to suspensions, dismissals, reductions in pay, demotions, layoffs, transfers and grievances. The Administration Commission rule approval requirement is a vestige from the period in which the courts and universities were included in the State Personnel System.

### **III. Effect of Proposed Changes:**

**Section 1** provides a directive to the Division of Statutory Revision to rename Chapter 110, F.S. as “State Personnel System.”

**Section 2** provides a directive to the Division of Statutory Revision to rename part I of Chapter 110, F.S., as “General Provisions.”

**Section 3** amends s. 110.105, F.S., establishing that the purpose of Chapter 110, F.S. is to establish the State Personnel System; removing provisions relating to discrimination, Florida residency requirements, and protection of rights guaranteed under Chapter 447, F.S. that are moved to s. 110.1065, F.S.

**Section 4** transfers, renumbers, reorders, and amends s. 110.107, F.S. to s. 110.1054, F.S., revising numerous definitions used in Chapter 110, F.S. for clarifications and to reflect the renaming of the “Career Service System” to the “Civil Service System.”

**Section 5** amends s. 110.1055, F.S., requiring the Department of Management Services to develop uniform personnel rules, guidelines, and reports; granting rulemaking authority to the Department of Management Services that provides alternative requirements to the uniform rules; providing that each state agency must apply the uniform personnel rules; providing exceptions to uniform personnel rule compliance; allowing the Department of Management Services to develop uniform forms and instructions relating to personnel transactions as deemed necessary

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<sup>21</sup> See section 110.27(1), F.S. The PERC processes charges of unfair labor practices and charges relating to a public employee or employee organization. It handles public sector cases (unfair labor practice charges, representation petitions, amendments to certification, petitions to revoke certifications, and labor organizations’ registration), career service appeals, Drug-Free Workplace appeals, whistleblower appeals, veterans’ preference appeals, attorneys’ fees appeals, back pay appeals, mediations, and district court appeals. See also s. 447.207, F.S.

<sup>22</sup> *Pesta v. Dept. of Corrections*, -- So.3d --, Case No. 1D09-6489 (Fla. 1st DCA 2011).

<sup>23</sup> Section 14.202, F.S.

**Section 6** creates s. 110.1056, F.S., providing that the Department of Management Services may periodically audit agency records to determine compliance with Chapter 110, F.S. and department rules.

**Section 7** transfers, renumbers, and amends s. 110.405, F.S. to s. 110.106, F.S., clarifying language governing advisory committees organized by the Secretary of Management Services to provide consultation on matters affecting the State Personnel System.

**Section 8** creates s. 110.1065, F.S., establishing the general employment policies and requirements of the State Personnel System; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 9** transfers, renumbers, and amends s. 110.233, F.S. to s. 110.1075, F.S., replacing references to the “Career Service” with “Civil Service”; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 10** amends s. 110.1099, F.S., clarifying language relating to elective education and professional development opportunities for state employees.

**Section 11** transfers, renumbers, and amends s. 110.235, F.S. to s. 110.1115, F.S., providing that state agencies shall implement professional development programs for employees; providing that state agencies shall provide requested information to the Department of Management Services; specifying subjects for training programs administered by each agency; providing that each individual agency is responsible for ensuring that personnel are trained in the administration of state personnel system policies and procedures; permitting the Department of Management Services to coordinate with state universities and community colleges to sponsor conferences relating to human resources management; permitting the Department of Management Services to open such conferences to state and local public employers with common interests; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 12** amends s. 110.112, F.S., removing the Administration Commission approval requirement for agencies’ affirmative action plans; requiring the Department of Management Services to include the demographic composition of the State Personnel System in its annual workforce report; requiring agencies to provide the Department of Management Services data regarding the demographic composition of their employees; requiring each state agency to ensure freedom from discrimination in employment through application of relevant state and federal laws; requiring the phrase “An Equal Opportunity Provider” be included in all recruitment literature listing State Personnel System vacancies; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 13** creates s. 110.1135, F.S., requiring each state agency to keep accurate records of all hours of work performed and any authorized leave taken by each employee; specifying that the ultimate responsibility for the accuracy and maintenance of attendance and leave records lies with the agency head.

**Section 14** amends s. 110.116, F.S., replacing references to the “Career Service” with “Civil Service”; replacing references to the “personnel information system” with “human resources

information system”; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 15** amends s. 110.1245, F.S., removing references to government employers outside the State Personnel System; providing that state agencies may pay employees bonuses in accordance with criteria and instructions included in the annual General Appropriations Act; providing that an employee may not receive bonus awards totaling more than \$1,000 per fiscal year; requiring agencies to report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the dollar value and number of such cash awards given in the previous fiscal year by September 1st of each year; allowing agency heads to issue noncash tokens of recognition to employees not exceeding \$150; specifying which classes of employees are eligible to receive noncash tokens of recognition.

**Section 16** amends s. 110.125, F.S., providing that administrative expenses and costs paid by individual state agencies are to be based on the number of authorized full-time equivalent positions appropriated to the agency, the average number of OPS employees paid by the agency, and the total administrative expenses and costs of operating the State Personnel System; specifying that governmental entities outside the State Personnel System that use or receive services from the personnel system must pay the Department of Management Services, by mutual agreement between DMS and the entity, any resulting administrative expenses and costs; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 17** amends s. 110.126, F.S., providing that the Department of Management Services may compel records in written or electronic form relevant to any investigation of personnel practices or hearing authorized by Chapter 110, F.S.; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 18** amends s. 110.127, F.S., simplifying language relating to already-existing penalties for any person who willfully violates a provision of Ch. 110, F.S.; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 19** transfers, renumbers, and amends s. 110.2037 to s. 110.182, F.S., clarifying provisions relating to tax-sheltered annual leave and sick leave payments and special compensation payments; correcting cross-references; granting rulemaking authority to the Department of Management Services to administer this section.

**Section 20** creates s. 110.183, F.S., relating to coordination on collective bargaining between the Department of Management Services and the Governor’s office and other state agencies. This provision is currently found in s. 110.201(4), F.S.

**Section 21** creates s. 110.184, F.S., requiring the Department of Management Services to prepare an annual workforce report on human resources in the State Personnel System; specifying that the Department of Management Services shall annually submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.



**Section 22** provides a directive to the Division of Statutory Revision to rename part II of Chapter 110, F.S., as “Civil Service.”

**Section 23** creates s. 110.202, F.S., creating the Civil Service System within the State Personnel System to comport with s. 14, Art. III of the State Constitution.

**Section 24** amends s. 110.205, F.S., changing references to the “Career Service System” to the “Civil Service System”; specifying positions and classes of employees that are exempt from the Civil Service; granting rulemaking authority to the Department of Management Services to administer this section; deleting provision allowing Career Service employees to retain all unused annual, sick, and compensatory leave upon appointment to a Selected Exempt Service position.

**Section 25** creates s. 110.208, F.S., requiring the Department of Management Services to establish and operate a uniform classification system of all Civil Service positions; specifying specific criteria and requirements governing the creation and administration of the uniform classification system; granting rulemaking authority to the Department of Management Services to administer the classification system; providing that state agencies are responsible for the daily application of the classification system.

**Section 26** creates s. 110.2085, F.S., providing that the Legislature may fund temporary special duty pay additives through the General Appropriations Act; requiring that new competitive area differentials or a new critical market pay additive may not be implemented by agencies unless express authority is granted by the Legislative and is reviewed and recommended by the Department of Management Services; requiring the Department of Management Services to provide an annual report on pay additives to the Governor and the Legislature; granting rulemaking authority to DMS to administer this section.

**Section 27** amends s. 110.211, F.S., clarifying language relating to recruitment of prospective employees; granting rulemaking authority to DMS to administer this section.

**Section 28** amends s. 110.213, F.S., clarifying language relating to selection of candidates; granting rulemaking authority to DMS to administer this section.

**Section 29** amends s. 110.2135, F.S., clarifying language relating to veterans’ preference practices; granting rulemaking authority to DMS to administer this section.

**Section 30** amends s. 110.215, F.S., changing references to the “Career Service System” to the “Civil Service System”; granting rulemaking authority to DMS to administer this section.

**Section 31** amends s. 110.217, F.S., removing requirement for uniform rule approval by the Administration Commission; clarifying language relating to appointments; providing that a probationary period is capped at 18 months. This section clarifies that an employee that has attained merit status in one position, is promoted to another position and does not meet performance standards of the promotional position *shall* be returned to the original position, or to a position with substantially similar duties and responsibilities, if such a position is available. This section contains language providing that a Career Service employee serving a probationary

period in a promotional position must be returned to their former or comparable position if removed is transferred to this section from s. 110.227, F.S.

**Section 32** amends s. 110.219, F.S., clarifying language relating to attendance and leave of employees; changing references to the “Career Service” to the “Civil Service.”

**Section 33** amends s. 110.221, F.S., clarifying language relating to parental or family medical leave; changing references to the “Career Service” to the “Civil Service”; granting rulemaking authority to DMS to administer this section.

**Section 34** amends s. 110.224, F.S., clarifying language relating to the Employee Performance Evaluation System.

**Section 35** amends s. 110.227, F.S., removing requirement for rule approval by the Administration Commission; clarifying language relating to suspensions and dismissals; changing references to the “Career Service” to the “Civil Service”; clarifying that appeal rights under this section are not available to employees who attained merit status in a previous position; granting rulemaking authority to DMS to administer this section. The language providing that a Career Service employee serving a probationary period in a promotional position must be returned to their former or comparable position if removed is transferred to s. 110.217, F.S. (section 31 of this bill) as a result of the reorganization of the state employment statutes.

**Section 36** provides a directive to the Division of Statutory Revision to renumber part V of Chapter 110, F.S., as part III and to rename that part as “Selected Exempt Service.”

**Section 37** transfers, renumbers, and amends s. 110.601, F.S. to s. 110.302, F.S., clarifying language relating to the declaration of policy of the State Personnel System.

**Section 38** transfers, renumbers, and amends s. 110.602, F.S. to s. 110.3021, F.S., clarifying language relating to the Selected Exempt Service; providing that employees in the Selected Exempt Service serve at the pleasure of their agency head.

**Section 39** transfers, renumbers, and amends s. 110.605, F.S. to s. 110.3022, F.S., establishing that DMS is responsible for the policy administration of the Selected Exempt Service, providing that rules adopted by DMS are to comply with federal regulations to allow agencies to receive federal funds; providing that agencies must comply with the uniform personnel rules adopted by DMS; requiring that each agency maintain up-to-date records and reports in accordance with applicable rules.

**Section 40** creates s. 110.3023, F.S., providing that each agency is responsible for creating a process for employing, advancing, and deploying selected exempt service staff; providing criteria for agencies if a multistate search is necessary to fill a position.

**Section 41** provides a directive to the Division of Statutory Revision to renumber part III of Chapter 110, F.S., as part IV and to rename that part as “Senior Management Service.”

**Section 42** amends s. 110.401, F.S., clarifying language relating to the declaration of policy of the Senior Management Service.

**Section 43** amends s. 110.402, F.S., clarifying language relating to the creation of the Senior Management Service; transferring language providing that employees in the Senior Management Service serve at the pleasure of the agency head previously in s. 110.403(1)(a), F.S.

**Section 44** amends s. 110.403, F.S., establishing that DMS is responsible for the policy administration of the Senior Management Service, providing that DMS may not approve any Senior Management Service position that exceeds the limitation; establishing that DMS is to provide market-based pay bands for Senior Management Service positions; providing that DMS may conduct compensation surveys; providing that DMS shall establish a performance evaluation system for Senior Management Service employees; providing that rules adopted by DMS are to comply with federal regulations to allow agencies to receive federal funds; providing that agencies must comply with the uniform personnel rules adopted by DMS; requiring that each agency maintain up-to-date records and reports in accordance with applicable rules.

**Section 45** creates s. 110.4035, F.S., providing that each agency is responsible for creating a process for employing, advancing, and deploying executive level managers; providing criteria for agencies if a multistate search is necessary to fill a position.

**Section 46** provides a directive to the Division of Statutory Revision to create part IX of Chapter 112, F.S. and to name that part as “State Employment.”

**Section 47** creates s. 112.906, F.S., establishes definitions to be used within part IX of Chapter 112, F.S.

**Section 48** transfers, renumbers, and amends s. 110.131, F.S., to s. 112.907, F.S., clarifying language relating to Other Personal Services (OPS) employment; removing 1,040 hour limitation for OPS employees; granting rulemaking authority to authorized agencies to administer this section.

**Section 49** transfers, renumbers, and amends s. 110.1315, F.S., to s. 112.908, F.S., clarifying language relating to Alternative Retirement Benefits for OPS employees; establishing that the Department of Financial Services (DFS) shall provide the alternative retirement program for OPS employees; granting rulemaking authority to DFS to administer this section.

**Section 50** transfers and renumbers s. 110.1128, F.S. to s. 112.909, F.S.

**Section 51** creates s. 112.910, F.S., relating to equal employment opportunity policy of the state. This language is transferred from its current location in s. 110.112, F.S.

**Section 52** creates s. 112.911, F.S., establishing the policy of nondiscrimination in employment.

**Section 53** transfers, renumbers, and amends s. 110.1221, F.S. to s. 112.912, F.S., providing that each agency that has authority to adopt rules governing the terms and conditions of employment shall adopt uniform sexual harassment rules.

**Section 54** transfers, renumbers, and amends s. 110.122, F.S. to s. 112.913, F.S., clarifying language relating to the terminal payment for accumulated sick leave; providing that each employing entity is responsible for the maintenance of sick leave records for its employees; requiring that rules and policies must provide terminal pay for sick leave equal to one-fourth of all unused sick leave credit.

**Section 55** transfers, renumbers, and amends s. 110.121, F.S. to s. 112.914, F.S., clarifying language relating to sick leave pools.

**Section 56** transfers, renumbers, and amends s. 110.119, F.S. to s. 112.915, F.S., providing that paid leave for a military-service connected disability may not exceed 48 hours per calendar year; removing rulemaking authority to DMS to administer this section.

**Section 57** transfers, renumbers, and amends s. 110.120, F.S. to s. 112.916, F.S., clarifying language relating to administrative leave for disaster service volunteers.

**Section 58** transfers, renumbers, and amends s. 110.1091, F.S. to s. 112.917, F.S., clarifying language relating to a public records exemption for employee assistance programs.

**Section 59** transfers, renumbers, and amends s. 110.151, F.S. to s. 112.918, F.S., clarifying language relating to child care services for agency employees' children or dependents.

**Section 60** transfers and renumbers s. 110.181, F.S. to s. 112.919, F.S.

**Section 61** transfers, renumbers, and amends s. 110.1225, F.S. to s. 112.920, F.S., clarifying language relating to furloughs; permitting state agencies to submit a furlough plan for approval by the Governor or the Chief Justice of the Supreme Court; requiring approved furlough plans to be submitted to the Legislative Budget Commission; requiring the Legislative Budget Commission to consult with the Revenue Estimating Conference regarding the deficit; providing that agencies may also impose furloughs as directed by the Legislature in the General Appropriations Act in the event of a deficit.

**Section 62** transfers and renumbers s. 110.1155, F.S. to 112.922, F.S.

**Section 63** transfers, renumbers, and amends s. 110.191, F.S. to s. 112.922, F.S., clarifying language relating to state employee leasing.

**Section 64** transfers, renumbers, and amends s. 110.1082, F.S. to s. 112.923, F.S., clarifying language relating to telephone system use by state employees.

**Section 65** transfers, renumbers, and amends s. 110.1165, F.S. to s. 112.924, F.S., clarifying language relating to executive branch personnel errors.

**Section 66** transfers, renumbers, and amends s. 110.113, F.S. to s. 112.925, F.S., clarifying language relating to pay periods for state officers and employees and salary payments by direct deposit.

**Section 67** transfers and renumbers s. 110.114, F.S. to s. 112.926, F.S.

**Section 68** creates s. 112.927, F.S., allowing DMS to contract with other agencies or government entities to establish and maintain positions and use the Human Resource Information System; establishing that the use and operation of the Human Resource Information System is based upon design rules set by DMS; providing that other agencies may be required to conform their human resource rules and practices to conform to those governing the Human Resource Information System.

**Section 69** transfers, renumbers, and amends s. 110.1127, F.S. to s. 112.928, F.S., clarifying language relating to employee background screening and investigation; providing that agencies designate which positions require security background screening.

**Section 70** transfers, renumbers, and amends s. 110.117, F.S. to s. 112.929, F.S., providing that each full-time employee is entitled to one personal day each year, providing that the personal day must be taken on a whole day and may not be used incrementally; clarifying that OPS employees are not eligible for paid holidays or a personal day.

**Section 71** creates s. 112.930, F.S., providing a definition of “telework”, requiring agencies to designate positions that are deemed appropriate for telework; requiring agencies to develop a telework plan that includes telework policies and procedures, providing minimum requirements for an agency telework plan; granting rulemaking authority to administer this section to each agency authorized to adopt rules governing the terms and conditions of employment.

**Section 72** creates s. 112.931, F.S., relating to the savings sharing program; requiring DMS and the judicial branch to provide an annual report on the program to the President of the Senate and the Speaker of the House of Representatives.

**Section 73** transfers and renumbers s. 110.1156, F.S. to s. 112.932, F.S.

**Section 74** creates s. 112.933, F.S., relating to penalties. This is an already-existing penalty that is moved from Chapter 110 to Chapter 112 to correspond with the reorganization to the state employment statutes that this bill accomplishes.

**Section 75** provides a directive to the Division of Statutory Revision to create Part X of Chapter 112, F.S. and to name that part “State Administered Benefits.”

**Section 76** transfers, renumbers, and amends s. 110.1227, F.S. to s. 112.940, F.S., clarifying language relating to the Florida Employee Long-Term-Care Plan Act.

**Section 77** transfers, renumbers, and amends s. 110.1228, F.S. to s. 112.941, F.S., correcting cross-references.

**Section 78** transfers, renumbers, and amends s. 110.123, F.S. to s. 112.942, F.S., clarifying language relating to the State Group Insurance Program; changing references to the “Career Service” to the “Civil Service.”

**Section 79** transfers, renumbers, and amends s. 110.12301, F.S. to s. 112.943, F.S., correcting a cross-reference.

**Section 80** transfers and renumbers s. 110.12302, F.S. to s. 112.944, F.S.

**Section 81** transfers, renumbers, and amends s. 110.12312, F.S. to s. 112.945, F.S., correcting a cross-reference.

**Section 82** transfers and renumbers s. 110.12315, F.S. to s. 112.946, F.S.

**Section 83** transfers, renumbers, and amends s. 110.1232, F.S. to s. 112.947, F.S., correcting a cross-reference.

**Section 84** transfers and renumbers s. 110.1234, F.S. to s. 112.948, F.S.

**Section 85** transfers and renumbers s. 110.1238, F.S. to s. 112.949, F.S.

**Section 86** transfers and renumbers s. 110.1239, F.S. to s. 112.950, F.S.

**Section 87** transfers, renumbers, and amends s. 110.161, F.S. to s. 112.951, F.S., correcting a cross-reference.

**Section 88** creates s. 112.952, F.S., relating to penalties. This is an already-existing penalty that is moved from Chapter 110 to Chapter 112 to correspond with the reorganization to the state employment statutes that this bill accomplishes.

**Section 89** provides a directive to the Division of Statutory Revision to renumber part IV of Chapter 110, F.S. as part XI, and to rename that part as “State Volunteer Services.”

**Section 90** transfers, renumbers, and amends s. 110.501, F.S. to s. 112.961, F.S., clarifying definitions related to State Volunteer Services.

**Section 91** transfers, renumbers, and amends s. 110.502, F.S. to s. 112.962, F.S., clarifying language relating to the Domestic Volunteer Service Act; providing that volunteers may be required by the agency to submit to security background screenings; correcting cross-references.

**Section 92** transfers, renumbers, and amends s. 110.503, F.S. to s. 112.963, F.S., clarifying the responsibilities of state agencies using volunteer services; providing that agencies must provide volunteers with the agency’s policies and procedures applicable to their volunteer activities; providing that a state employee’s volunteer activities are not considered volunteer work if work requires payment for overtime in accordance with the Fair Labor Standards Act.

**Section 93** transfers, renumbers, and amends s. 110.504, F.S. to s. 112.964, F.S., clarifying language relating to volunteer benefits.

**Section 94** creates s. 112.965, F.S., relating to penalties. This is an already-existing penalty that is moved from Chapter 110 to Chapter 112 to correspond with the reorganization to the state employment statutes that this bill accomplishes.

**Section 95** repeals ss. 110.115, 110.118, 110.124, 110.129, 110.1521, 110.1522, 110.1523, 110.171, 110.201, 110.2035, 110.21, 110.406, 110.603, 110.604, and 110.606, F.S.

**Sections 96-165** make non-substantive editorial changes, correct cross-references, and change references to the “Career Service” to the “Civil Service.”

**Section 166** provides an effective date of July 1, 2012.

#### **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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. While expanding the People First fee to all agencies utilizing the system may require additional appropriations, it may help lower the system-wide costs borne by the current paying agencies.

#### **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.)

**CS by Governmental Oversight and Accountability – February 7, 2012:**

The CS amended the original bill in that it:

- Provides that if a state agency certifies or projects a deficit in an agency fund that supports salary and benefit appropriations, the agency may propose a detailed plan to furlough employees. The plan must be approved by the Governor or Chief Justice of the Supreme Court, and then sent to the Legislative Budget Commission. To ensure that the agency is truly facing a deficit, the Legislative Budget Commission must consult with the Revenue Estimating Conference regarding the deficit.
- Providing an 18 month cap to probationary periods and clarifying that when an employee that has attained merit status in one position is promoted to another position and does not meet performance standards of the promotional position, they shall be returned to the original position, or to a position with substantially similar duties and responsibilities, if such a position is available.
- Restoring to current law a provision guaranteeing collective bargaining rights.

- B. **Amendments:**

None.