

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5507 PCB GOAS 12-05 Department of Management Services

**SPONSOR(S):** Government Operations Appropriations Subcommittee, Hooper

**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE   | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| Orig. Comm.: Government Operations<br>Appropriations Subcommittee | 14 Y, 0 N | Lloyd   | Topp                                     |
| 1) Appropriations Committee                                       | 23 Y, 0 N | Lloyd   | Leznoff                                  |

### SUMMARY ANALYSIS

The Department of Management Services (DMS) is the administrative arm of Florida's state government. HB 5507 amends statutes relating to the department to conform to the proposed House of Representatives' General Appropriations Act (GAA) for FY 2012-13 by:

- Revising provisions relating to the reimbursement of DMS for actual costs of coordinating the annual Florida State Employees' Charitable Campaign.
- Providing for the transfer of funds generated by fees collected for the use of the DMS online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from the DMS to the Department of Financial Services to support statewide purchasing operations associated with the online procurement system and electronic information services.
- Repealing the statute which establishes the executive aircraft pool within the DMS. In addition, the bill terminates the Bureau of Aircraft Trust Fund and transfers the cash balance to the General Revenue Fund. Eliminates the need for providing an annual report on executive aircraft usage.
- Amends the statute to continue the \$3 surcharge on certain criminal offenses and noncriminal moving traffic violations by extending the sunset date of the provision. The surcharge annually provides \$5.2 million to support the Statewide Law Enforcement Radio System.
- Requires contractors of private correctional facilities to directly reimburse the DMS for contract monitoring and administrative costs rather than the current practice of reimbursing the Department of Corrections for contract monitoring. The direct reimbursement to DMS for administrative costs will allow for a General Revenue savings of \$1.2 million.

To conform to the proposed House GAA, this bill ensures that the department is fully reimbursed the actual cost for coordinating the annual Florida State Employees' Charitable Campaign; authorizes the transfers of funds to the Department of Financial Services for statewide purchasing operations; eliminates the requirement that DMS provide on-demand executive aircraft travel (appropriations eliminated in FY 2011-12); amends the statute to continue the \$3 surcharge on certain criminal and non-criminal moving traffic violations to insure that \$5.2 million is collected to support the Statewide Law Enforcement Radio System; and requires contractors of private correctional facilities to reimburse DMS directly for administrative and contract monitoring which provides an annual General Revenue savings of \$1.2 million.

This bill takes effect on July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Florida State Employees' Charitable Campaign

###### Background:

Pursuant to s. 110.181, F.S., the DMS is required to establish and maintain, in coordination with the payroll system of the Department of Financial Services, an annual Florida State Employees' Charitable Campaign. The annual fundraising drive is authorized to be directed toward state employees within work areas during work hours. The state provides payroll deduction based upon employee elections.

The department is responsible for selecting through the competitive procurement process a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations. Pursuant to s. 110.181(2)(b), F.S., the fiscal agent is required to withhold the reasonable costs for conducting the campaign and for accounting and distribution to the participating organizations. The fiscal agent is further required to reimburse the department the actual cost, not to exceed 1 percent of gross pledges, for coordinating the campaign in accordance with the rules of the department.

Department analysis shows that approximately \$100,000 in out-of-pocket costs was not reimbursable to the department in one of the two recently completed fiscal years due to the reimbursement limit of 1 percent of gross pledges.<sup>1</sup>

###### Effect of Bill:

This bill amends s. 110.181, F.S., to require the fiscal agent to reimburse the DMS the actual cost of conducting the campaign; thus, removing the limitation that the department's reimbursement will not exceed 1 percent of gross pledges.

##### Electronic Procurement System Transaction Fees Collected by the Department

###### Background:

Pursuant to sections 287.042 and 287.057, F.S., the DMS has the authority to impose and collect transaction fees from private sector vendors for the use of its online procurement system and electronic information services (commonly known as MyFloridaMarketPlace). Accordingly, DMS has established and imposed a transaction fee in an amount sufficient to cover the projected costs of services, including administrative and project service costs. All transaction fees collected under the statutory provisions are required to be used for disbursements as provided by law.

The transaction fees are collected and used for the purpose of making contractor payments associated with the online procurement system and electronic information services and for department administrative costs for functions and services within the DMS Support Program – i.e., The Office of Supplier Diversity, Fleet Management, and Purchasing Oversight.

Transaction fees collected from vendors in excess of what is needed to fund the legislatively authorized disbursements accumulate in the Purchasing Oversight account in the Operating Trust Fund and become unobligated cash balances. These cash balances are deposited with the State Treasury and earn modest rates of return.

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<sup>1</sup> Department of Management Services' analysis is on file with the Government Operations Appropriations Subcommittee.

#### Effect of Bill:

This bill amends sections 287.042 and 287.057, F.S., to require the department to transfer funds generated by fees collected from private sector vendors for the use of its online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from the Purchasing Oversight account in the Operating Trust Fund to the Administrative Trust Fund in the Department of Financial Services to fund staff that support statewide purchasing operations associated with the online procurement system and electronic information services.

This bill specifies that unless provided for in the General Appropriations Act, the amount of the transfer shall be established each year in the department's nonoperating budget based upon the estimated cost of staff support provided by the Department of Financial Services, not to exceed \$500,000. The proposed House Appropriations Act for FY 2012-13, transfers \$350,000 from DMS to the Department of Financial Services for statewide purchasing functions.

#### Executive Aircraft Pool

##### Background:

The DMS established an executive aircraft pool for the purpose of furnishing executive air travel pursuant to s. 287.161, F.S. Most recently, the aircraft pool consisted of a state-owned Beechcraft King Air 350 Turbo-Prop and a leased Cessna Citation Bravo business jet.

Upon taking office, the Governor directed the department to sell both aircraft and to terminate employment of the 11-member crew of pilots, mechanics, and administrative staff. Both aircraft have been sold. The \$1.5 million in annual appropriations to support the executive aircraft program and 11.00 staff positions were eliminated in the FY 2011-12 General Appropriations Act.

The Bureau of Aircraft Trust Fund, FLAIR number 72-2-066, was previously used as the depository for fee collections for persons traveling on an executive aircraft and for expenditures associated with the costs incurred to operate aircraft management activities of the department. The trust fund has a remaining cash balance of \$35,651. However, in the current fiscal year, there are no appropriations for expenditures from the trust fund.

##### Effect of Bill:

This bill repeals s. 287.161, F.S., which establishes the executive aircraft pool within the DMS. Additionally, the bill terminates the Bureau of Aircraft Trust Fund and transfers the remaining cash balance to the General Revenue Fund.

#### Statewide Law Enforcement Radio System (SLERS) Funding

##### Background:

A surcharge of \$3 is imposed on criminal offenses listed in s. 318.17, F.S., and for noncriminal moving traffic violations under chapter 316., F.S. These funds are deposited in the SLERS trust fund and are used to support the statewide communications systems for law enforcement and emergency personnel. This surcharge is scheduled to sunset on July 1, 2012.

##### Effect of the Bill:

The bill amends current law to continue the surcharge through July 1, 2021. The surcharge will continue to provide approximately \$5.2 million in annual revenue to support the Statewide Law Enforcement Radio System. The surcharge revenues account for approximately 23% of the overall cost of providing the Statewide Law Enforcement Radio System.

## Private Prison Monitoring

### Background:

Chapter 957, F.S., charges the Department of Management Services, Bureau of Private Prison Monitoring (Bureau) with issuing contracts, establishing operating standards, and monitoring compliance of the state's private prisons. The Bureau is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities. The Bureau may not enter into a contract unless it determines that the contract or series of contracts in total for the facility will result in cost savings to the state of at least seven percent under the Department of Corrections costs. Once the savings is determined, the Bureau enters into a contract with a private vendor to operate the facility for an agreed daily per diem. The per diem includes the cost of all facility operations and the cost of the contract monitors employed by DMS. The Bureau currently oversees the operational contracts for seven facilities: Bay, Blackwater River, Gadsden, Graceville, Lake City, Moore Haven, and South Bay correctional facilities.

The Bureau currently has 14 authorized positions. Seven of those positions are associated with the administration of the contracts. The other seven positions monitor the contracts from each private institution. Section 957.04(1)(g), F.S., requires a full-time contract monitor that is appointed and supervised by DMS, and the contractor is required to reimburse DMS for the salary and expenses of the contract monitor. However current law does not require the contractor to reimburse DMS for the seven positions associated with the administration of the contracts. Also, currently the private prison contractors reimburse the Department of Corrections rather than the DMS the cost of the contract monitors.

### Effects of Bill:

This bill amends s. 957.04(1)(g), F.S., to require private prison contractors to reimburse DMS for their proportional share of the costs associated with the administration of the contracts in addition to the reimbursement for the contract monitor. The bill clarifies that one full-time monitor is required at each private correctional facility. In addition, the bill specifies that the reimbursements are in addition to all contracted per diems and may not result in increased per diems or decreased services.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 110.181, F.S., revising provisions relating to the reimbursement of the DMS for actual costs of coordinating the Florida State Employees' Charitable Campaign.

**Section 2.** Amends s. 287.042, F.S., providing for the transfer of funds generated by fees collected for the use of the DMS online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from DMS to the Department of Financial Services to support statewide purchasing operations. In addition, provides that the transfer of cash to the Department of Financial Services may not exceed \$500,000.

**Section 3.** Amends s. 287.16, F.S., eliminating a duty of the Department of Management Services to provide an annual report concerning utilization of aircraft in the executive aircraft pool.

**Section 4.** Repeals s. 287.161, F.S., which establishes the executive aircraft pool within the DMS.

**Section 5.** Terminating the Bureau of Aircraft Trust Fund within the DMS; providing for the disposition of balances in and revenues of the trust fund; and prescribing procedures for terminating the trust fund.

**Section 6.** Amends 318.18 & 318.21, F.S., continues \$3 surcharge on certain criminal penalties and traffic violations with a revised sunset date of July 1, 2021.

**Section 7.** Amends 957.04, F.S., requires contractors of private correctional facilities to directly reimburse the DMS for contract monitoring and administrative oversight.

**Section 8.** Providing an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

See "Fiscal Comments" section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

#### Florida State Employees' Charitable Campaign

An analysis prepared by the DMS shows that an additional amount up to \$100,000 in out-of-pocket costs will be reimbursable to the department beyond the amount of reimbursements for the two recently completed fiscal years - assuming the same level of department effort to conduct the campaign.

#### Electronic Procurement System Transaction Fees Collected by the Department

An amount not to exceed \$500,000, per year, may be transferred from the Purchasing Oversight account in the DMS Operating Trust Fund to the Administrative Trust Fund in the Department of Financial Services to fund staff that support statewide purchasing operations associated with the department's online procurement systems and electronic information services (commonly known as MyFloridaMarketPlace). The Proposed House of Representatives' General Appropriations Act for FY 2012-13, provides \$350,000 to Department of Financial Services for statewide purchasing functions.

#### Statewide Law Enforcement Radio System Funding

The \$3 surcharge imposed on criminal offenses listed in s. 318.17, F.S., and for all noncriminal moving traffic violations under chapter 316, F.S., currently provides \$5,250,000 in annual revenues for the support of the Statewide Law Enforcement Radio System. The surcharge revenues account for approximately 23% of the overall cost of providing the Statewide Law Enforcement Radio System. The proposed House of Representatives' General Appropriations Act for FY 2012-13, includes the \$5.2 million revenue stream from the \$3 surcharge for appropriations related to operating the Statewide Law Enforcement Radio System.

## Private Prison Monitoring

The DMS will be reimbursed by the private prison contractors for all 14 of the positions in the Bureau of Private Prison Monitoring, including the administrative contract oversight, which will provide a General Revenue savings of \$1.2 million in the proposed House of Representatives' General Appropriations Act for FY 2012-13. The proposed appropriations act also includes a newly create budget entity for private prison monitoring so as to easily distinguish the cost of the Bureau of Private Prison Monitoring. The appropriations of the new budget entity for FY 2012-13 total, \$2.1 million.

The bill requires private prison contractors to reimburse DMS for their proportional share of the costs associated with the administration of the contracts in addition to the reimbursement for the contract monitors. Presently, the private prison contractors are reimbursing the Department of Corrections for the monitoring oversight costs. In addition, the bill requires the three private prison contractors currently operating institutions in this state to proportionally share the cost between them. The bill specifies that the reimbursements are in addition to all contracted per diems and may not result in increased per diems or decreased services.

### **III. COMMENTS**

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

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

##### **2. Other:**

None.

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

None.

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

None.

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