

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 2, 1998 Revised: _____

Subject: State Aircraft; Public Officers and Candidates; Use for Campaign Purposes

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fox</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Favorable</u>
2.	<u>Miller</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

Senate Bill 804 prohibits any person from using state-owned aircraft to further *any* candidacy for public office. The bill designates a violation as a third degree felony.

This bill amends sections 106.15 and 921.0012, Florida Statutes.

II. Present Situation:

The Division of Motor Pool in the Department of Management Services (DMS) is responsible for maintaining and operating the state’s Executive Aircraft Pool, which consists of four airplanes. Use of state-owned aircraft is limited to persons conducting official state business and requires the authorization of an agency head. s. 287.17, F.S. (1997). Under certain circumstances, Florida law also authorizes certain parties to accompany such persons conducting official business.

The Legislature has granted candidates for public office special authorization to use state-owned aircraft. Although a *candidate* is currently prohibited from using state-owned aircraft *solely* for the purpose of furthering his or her candidacy, a candidate may use an aircraft for campaign purposes provided the trip also involves conducting official state business, and the candidate reimburses the appropriate agency for either the *pro rata* expenses associated with the use of the aircraft or for 50 percent of the expenses, whichever is greater. s. 106.15(2), F.S. (1997).

During the 1996 campaign season, the Governor and other high-ranking public officers who were not candidates themselves used state-owned aircraft to further the candidacy of *other candidates*. Florida law does not directly address this situation. An unpublished Attorney General opinion suggests that the use of state-owned planes by the Governor for the exclusive purpose of furthering the candidacy of other party candidates may be permissible under the law. Letter from

Attorney General Robert Butterworth to Senator Charlie Crist (November 1, 1996). The Attorney General opinion asserts that the Governor, by virtue of the responsibilities of the position and the possible need to respond to a statewide emergency, conducts official state business 24-hours a day. Therefore, the use of state-owned planes may arguably be permissible under all circumstances since the Governor is constantly conducting official state business. Despite this assertion, the Attorney General suggested that the law is not clear and that the Legislature might want to clarify its intent regarding the use of state-owned aircraft.

III. Effect of Proposed Changes:

Senate Bill 804 prohibits a person from furthering *any* candidacy on trips where the person flies on a state-owned aircraft. Therefore, public officers whose travel includes, in whole or in part, any campaigning for themselves or others while at their destinations, or *en route* to or from their destinations, will be prohibited from using state-owned aircraft for such flights.

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:

Public officers and incumbent candidates may incur additional campaign travel expenses since they will no longer be able to “piggyback” campaign trips with trips to conduct official state business. The cost of flying one of the state-owned planes is approximately \$700 to \$1000 per hour of flying time, which includes both fixed and variable costs. Because the per-official cost varies according to how many persons are on the flight, the size of the airplane, and the flight duration, the precise additional cost to candidates and public officers of flying

commercial airliners versus paying a portion of the state-owned aircraft flight is indeterminable.

C. Government Sector Impact:

Because the Division of Motor Pool does not keep records of precisely how much revenue is collected as reimbursement for campaign-related activities, the amount of savings to the state is indeterminable. However, OPPAGA reports that it is generally significantly more expensive to use the Executive Aircraft Pool than commercial air services. OPPAGA Report No. 95-05, at 2 (September 14, 1995).

The Department of Corrections reports that the number of convictions for this offense will likely be few; thus, the impact of this legislation on the department is expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.