

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:

B. EFFECT OF PROPOSED CHANGES:

Background:

Florida administrative agencies are currently required by law to publish notices and various other materials in the Florida Administrative Weekly (FAW). The FAW is published by the Department of State and distributed to administrative agencies, courts, law schools, the Legislature, and other subscribers. For the calendar year 2002, FAW had 712 paid subscribers and provided 135 free subscriptions. The FAW produced 5,797 pages per subscription. The current cost of a subscription to the FAW is \$319 a year. In addition to publishing the print version of the FAW, the Department of State also posts copies of the FAW on the Internet.

Section 120.55(1)(b), F.S., requires that the FAW contain:

- Notice of adoption of, and an index to, all rules filed during the preceding week;
- All notices required by s. 120.54(3)(a) (formal agency rule making), showing the text of all rules proposed for consideration or a reference to the location in the FAW where the text of the proposed rules is published;
- All notices of public meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained;
- A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules;
- Notice of petitions for declaratory statements or administrative determinations;
- A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week; and
- Any other material required or authorized by law or deemed useful by the department.

In addition to notices required by s. 120.55, F.S., statute requires administrative agencies to publish some specific other materials in the FAW.

Section 120.55(1)(f), F.S. permits the Department of State to charge each agency a "space rate computed to cover a pro rata share of 50 percent of the costs related to the publication of the Florida Administrative Weekly." Currently, the "space rate" charged is equal to \$0.99 per line.

Section 120.551, F.S., created a joint project between the DEP and the State Technology Office (STO) allowing the DEP to publish its notices on the Internet rather than in FAW. The project is to end July 31, 2003. The law requires that DEP publish a summary of the Internet-posted notice in the FAW.

Additionally, notices on the Internet must clearly state the posting date, be posted on the same days that the FAW is published, and meet existing form and content requirements for agency notices. The law also specifies the length of time which notices are to be available. To ensure that citizens are given permanent and open electronic access to notices that are published on the Internet, DEP was to develop a searchable database or other electronic system on the Internet to provide a permanent mechanism for accessing Internet notices. Once notices are removed from the DEP website, they are to be archived in a database, available on the Internet. Additionally, citizens are still to be able to request the removed agency notice by making a public records request. To inform citizens of where DEP notices may be found, the law requires the Department of State to publish a notice of the pilot project in the FAW stating that DEP notices are being published on the DEP website and providing the Internet address where DEP notices may be found.

The law also required the DEP, the STO, and the Department of State to submit a report to the Legislature and the Governor by January 31, 2003, containing findings on the cost-effectiveness of Internet publication of agency notices. The report concluded:

- All agencies should be given the option to publish over the Internet
- The public liked the ability to access notices over the Internet
- Cost savings were possible
- Legislation should require agencies choosing to publish notices on the Internet to use a common link to their homepages
- The requirements in the pilot project for dates of posting and formatting and the provision of a searchable database should be required for a permanent program as well
- There should be no requirement for agencies also to publish summaries in the print FAW
- Agencies should provide a service allowing individuals to subscribe to receive emailed updates

Proposed Changes:

When required to publish notices in the Florida Administrative Weekly, agencies may choose to publish them on the Internet instead. Internet-posted notices must

- clearly state the posting date,
- be posted on the same days that the FAW is published, and
- meet the Florida Administrative Code's existing form and content requirements.

Notices related to rule making must be maintained on the Internet for at least 12 months after the rule's effective date or at least 3 months after the publication of notice of withdrawal of the proposed rule. All other notices must remain on the Internet for at least 3 months after posting. Agencies choosing the Internet posting option must provide a searchable database or other electronic system on the Internet for permanent access to Internet notices as well as publish a notice in the FAW referring readers to their websites. The Department of State is to establish a specific section in the FAW for those notices. Additionally, references to the Department of Environmental Protection's pilot project would be deleted.

C. SECTION DIRECTORY:

Section 1. Amends s. 120.551, F.S., to provide state agencies the option to publish notices on the Internet, specify the timeframe and form of such postings, and require that Internet-posted notices be archived in a searchable database. It also deletes references to a Department of Environmental Protection pilot project.

Section 2. Provides that the act shall take effect July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: Entities which advertise in the Florida Administrative Weekly and the publication's subscribers pay the costs of the publication, including labor costs to review and prepare notices for publication and the costs of publishing and distributing the final document. For fiscal year 2001-02, advertisers (including state government, local government, and quasi-public entities) paid \$518,695.82 for publishing notices, charged on a per-line basis. The fiscal impact depends on the number of entities which elect to advertise on the Internet, the number of lines they have traditionally purchased annually, and their one-time and recurring expenditures for publication on the Internet. The Department of State estimates that the annual cost for an agency to publish on the Internet is \$2,125. If some agencies incur an expense to publish on the Internet but the overall costs of producing the FAW remain the same or decrease only slightly (for example, if only a few agencies choose Internet publishing, or if those agencies which do not choose Internet publishing require extensive staff assistance), the state may see an increase in total expenditures. Additionally, individual agencies continuing to advertise in the FAW may see increased per-line costs. However, if the costs of producing the FAW are permanently reduced because of agencies' publishing on the Internet more than the cost of agencies' publishing on the Internet, total state expenditures could decrease.

In 2001-02, the 15 state agencies with the greatest number of lines advertised accounted for 68% of the total lines advertised in the FAW (358,379 lines) and of the total advertising revenue (\$354,542). The remaining approximately 220 advertisers accounted for 32% of the total lines advertised and the total advertising revenues.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: See above, Fiscal Impact on State Government, Expenditures (Section II A. 2). Additionally, if per-line rates for the Florida Administrative Weekly are raised due to fewer advertisers covering the costs, local governments advertising in the FAW could face increased costs for advertising. Local governments could choose to publish notices on the Internet and perhaps face lower costs, but given the infrequency with which most local governments advertise in the FAW it is likely that Internet publishing would be more costly and time-consuming than traditional FAW publishing would be. Those that are higher-volume advertisers could experience lower costs by selecting Internet publishing.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: If some subscribers cancel their subscriptions, other subscribers may experience a price increase so the publisher could continue to cover fixed costs.

D. FISCAL COMMENTS: The Governor's 2003-04 budget recommendations propose transferring responsibilities and resources for publishing the Florida Administrative Weekly from the Department of State to the Department of Management Services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None.
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: If some agencies choose the Internet option while others do not, persons seeking agency notices may have to refer to multiple sources (the print FAW and one or more websites), which could be time-consuming, confusing, and increase the possibility that they miss seeing important notices. However, individuals who are interested only in the notices of a specific agency or agencies posting notices to the Internet may have easier access.

If because of fewer agencies noticing in the FAW some subscribers chose to no longer pay to subscribe, the vendor which publishes the print FAW may choose to discontinue publishing it, which would require the Department of State to find another vendor or resume production of the print version.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A.