

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

The bill amends s. 120.55, F.S., to require that the FAW, beginning January 1, 2004, be electronically published by the Department of State (DOS) on an Internet website rather than in its current paper form. The website is to be established and maintained by the State Technology Office; however, the DOS remains ultimately responsible for overseeing the FAW's publication, e.g., the DOS is required to prescribe rules concerning style and form for materials published in the FAW, review notices for compliance with rule requirements, grammatically edit, and insert history notes.

Pursuant to the bill, the FAW Internet website must be provided to agencies and the general public for free, and must be designed so that users may:

- Search for notices by type, publication date, program area, rule number, or agency;
- Search by word or subject;
- Search a permanent database that archives all notices published on the web site; and
- Subscribe to an automated e-mail notification of selected notices.

Prior to implementation of the web site, the bill requires: (a) the DOS to publish a notice in the FAW beginning on October 1, 2003, indicating that the paper version of the FAW will no longer be published as of December 31, 2003, and indicating the Internet URL or address for the future FAW Internet web site; and (b) the DOS with the assistance of the STO to make training courses, either in the form of workshops or self-training software packages, available to all agencies, which are currently required to publish in the FAW, for the purpose of assisting the agencies with their transition to publishing on the FAW Internet web site.

The bill strikes language in s. 120.55(1) and (5), F.S., that created the DOS's "Publication Revolving Trust Fund," which is funded by fees charged by the DOS under the chapter. The purpose of the trust fund, as currently stated in the section, is to pay for the publication and distribution costs of the Florida Administrative Code and the FAW, as well as associated costs to the DOS in carrying out the chapter's requirements. Although the bill removes this funding source, it does not yet specify a substitute funding source.

The bill also amends s. 120.551, F.S., to extend the DEP's authority to publish its administrative notices on the Internet from July 1, 2003 to December 31, 2003. Effective January 1, 2004, the bill repeals s. 120.551, F.S., as this authority will no longer be needed once the new FAW Internet web site is implemented.

C. SECTION DIRECTORY:

Section 1. Amends s. 120.55, F.S., requiring Internet publication on a website maintained by the State Technology Office; requiring that the Department of State review notices for format prior to publication; deleting the requirement that the Department of State contract for the publishing of the FAW; mandating that the website offer users the ability to search postings and subscribe to email notification regarding notices; providing that there is no charge for posting or accessing notices; deleting the requirement to provide free print subscriptions to selected entities, and striking language regarding the DOS's "Publication Revolving Trust Fund".

Section 2: Amends s. 120.551, F.S., to extend the Department of Environmental Protection's authority to publish its administrative notices on the Internet.

Section 3: Amends s. 287.042, F.S., deleting requirement for the Department of Management Services to temporarily designate a central posting site for notices related to procurement.

Section 4: Effective January 1, 2004, the bill repeals s. 120.551, F.S., which authorizes the Department of Environmental Protection to publish notices on its website.

Section 5: Provides for the discontinuation of publishing the print FAW and for notice to readers about such discontinuation in that publication.

Section 6: Provides that the Department of State, in conjunction with the State Technology Office, will provide training to agencies regarding the new procedures.

Section 7: Provides that the act shall take effect upon becoming a law, except where otherwise expressly provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	2003-04	2004-05
Department of State Publication Revolving Trust Fund	(\$ 265,768)	(\$ 531,536)
The Trust Fund is funded by charges to state and local governments for advertising. The original source for the funds may vary, such as general revenue or various trust funds.		
2. Expenditures:	2003-04	2004-05
<u>Department of State</u>		
One-time expenses:		
Technology	\$ 75,000	\$0.0
Recurring expenses:		
FTE's & expenses		
Publication Revolving Trust Fund	\$ 346,240	\$0.0
Source unknown	\$ 176,335	\$352,670
Website costs—absorbed by DMS	\$ 4,293	\$ 5,724

Other agencies

Recurring expenses:

Advertising costs (\$ 265,768) (\$ 531,536)

Expenditures for advertising come from various funds and are deposited into the Publication Revolving Trust Fund.

After the discontinuation of publishing the print version on December 31, 2003, the Department of State will require six (6.00) existing positions and associated expenses to prepare notices for electronic publication on the Internet; continue publication of the Florida Administrative Code; continue classification and numbering all general laws, special acts, resolutions and memorials for the state; continue filing city and county ordinances; and signing and filing executive orders, proclamations and extraditions. The Department of State currently utilizes 10.00 FTE's for production of the Florida Administrative Code, Florida Administrative Weekly, maintaining the laws of Florida and other filings. All 10 FTE's will be needed until December 31, 2003; after that date, implementation of this bill will allow the deletion of four (4.00) FTE's. The bill also requires the Department of State, with assistance from the State Technology Office, to provide training courses for all agencies to assist with transitioning to the Florida Administrative Weekly Internet website. However, it is anticipated that current staff will be utilized for this training and costs should be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: An entity which is defined as an "agency" pursuant to s. 120.52(1) will no longer pay line charges to advertise in the Florida Administrative Weekly. In regard to local governments, this includes authorities, including regional water supply authorities; regional planning agencies; certain multicounty special districts; and certain entities described in ch. 163, 373, 380, 582, and s. 186.504. Other units of government, including counties and municipalities, may be defined as agencies by the provisions of general or special law or existing judicial decisions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: There will not be a formal print subscription service provided by law, which could decrease revenues for the current publisher of the print version of the FAW.

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.

Other revenues besides line charges for the Florida Administrative Weekly advertising are deposited in the Publication Revolving Trust Fund, such as royalties from the publication of the Florida Administrative Code. If this trust fund is abolished as the bill provides, the Department of State will require new budget authority for receiving and spending those funds.

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: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 1157 was amended by the Committee on State Administration on March 31, 2003. This amendment makes significant changes to the bill, including providing that all advertisers were to post to the Internet; that the State Technology Office would host the site that all were to post to; that the current notices would be fully searchable; that a subscription email service would be provided; that the Department of Environmental Protection's pilot project would be discontinued after December 31, 2003, and that the paper version of the FAW would be discontinued as of December 31, 2003.