

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 815 County and Municipal Public Officer Transparency  
**SPONSOR(S):** Public Integrity & Ethics Committee; Local, Federal & Veterans Affairs Subcommittee; Avila  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 2 N, As CS	Darden	Miller
2) Public Integrity & Ethics Committee	12 Y, 6 N, As CS	Kiner	Rubottom
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Official travel by local government officers and employees is generally governed by a state-wide structure which defines types of travel and sets standardized rates for reimbursement. Taxpayer funds may only be used for official travel necessary to achieve public purposes and subject to limitations set by general law. All travel must be approved by the county or municipal governing body or the body's designee. Counties, school boards, special districts, and metropolitan planning organizations may adopt reimbursement rates that differ from general law, as long as those rates are at least as much as the statutorily established rates that were in effect during the 2005-2006 fiscal year.

Candidates for public office are required to file periodic reports of contributions received and expenditures made. Each candidate must file reports with the officer before whom the candidate is required by law to qualify.

The bill requires out-of-state travel by county and municipal officers to be approved by the governing body of the applicable local government at a regularly scheduled meeting prior to the officer's travel. However, the bill allows the travel to be approved at the next regularly scheduled meeting after the travel if good cause is shown. The bill requires the request to appear on the meeting agenda with an itemized list of anticipated travel expenses. Within 10 days after approval, the bill requires all out-of-state travel by a county or municipal officer to be posted on the county's or municipality's website. The bill prohibits county's and municipality's from paying for foreign travel by county and municipal officers. The bill provides an exemption from these provisions for elected county constitutional officers.

The bill requires the applicable qualifying officer to post incumbent elected county and municipal public officer campaign finance reports on the qualifying officer's official website. Such reports must be posted on the qualifying officer's website within 10 days after they are filed, and must remain posted until the end of the next calendar quarter after the election for which the candidate qualified. This provision applies to reports the candidate must file for his or her own campaign as well as reports that must be filed by a political committee controlled by the candidate.

The bill may have an indeterminate, but likely insignificant, fiscal impact on state and local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Official Travel by County and Municipal Officials and Employees

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>1</sup> In the case of county and municipal officers and employees, all travel must be approved by the governing body of the county or municipality or by a designated representative of the body.<sup>2</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that the travel is for official business. The county or municipality may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>3</sup> Per diem costs related to foreign travel may be paid by advancement or reimbursement, at current rates specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)."<sup>4</sup>

Travel is divided into four categories:<sup>5</sup>

- Class A: Continuous travel of 24 hours or more away from official headquarters.
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.<sup>6</sup> Travelers conducting Class A or Class B travel are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence allowance based on the time of travel.<sup>7</sup>

Class C travelers receive a subsistence allowance of \$6 for breakfast, \$11 for lunch, and \$19 for dinner.<sup>8</sup> The per diem and subsistence allowance for Class A and B travelers is the greater of:<sup>9</sup>

- \$80 per day; or
- the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.

Travelers are only reimbursed for the actual expenses of lodging or meals when the lodging or meals are provided at a state institution and may not be reimbursed for any meal or lodging included in a convention or conference registration fee paid for with taxpayer funds.<sup>10</sup>

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<sup>1</sup> Section 112.061(1), F.S.

<sup>2</sup> See s. 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. S. 112.061(2)(b), F.S.

<sup>3</sup> Section 112.061(3)(b), F.S.

<sup>4</sup> Section 112.061(3)(f), F.S.

<sup>5</sup> Section 112.061(2)(k)-(n), F.S. The "official headquarters" of an officer or employee is the city or town where the office of the employee is located.

<sup>6</sup> Section 112.061(5)(a), F.S.

<sup>7</sup> Section 112.061(5)(b), F.S.

<sup>8</sup> Section 112.061(6)(b), F.S.

<sup>9</sup> Section 112.061(6)(a), F.S.

<sup>10</sup> Section 112.061(6)(a), (c), F.S.

Public officers and employees may also receive reimbursement for transportation expenses.<sup>11</sup> Travel is reimbursed according to a “usually traveled route,” with any costs associated with deviation from that route being borne by the traveler. The governing body of the county or municipality or the body’s designee must determine the most economical method of travel, taking into account the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>12</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>13</sup> Use of a personal vehicle for official business is reimbursed to the travel at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.<sup>14</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>15</sup>

Travelers may also be reimbursed for:<sup>16</sup>

- taxi fare;
- ferry fares;
- bridge, road, and tunnel tolls;
- storage or parking fees;
- communication expenses; and
- convention registration fees, if the convention/conference serves a direct public purpose with relation to the employer of the public official, including expenses such a banquet or other meal fees, if the travel can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.

Counties, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates that were in effect during the 2005-2006 fiscal year.<sup>17</sup> Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the entity.<sup>18</sup>

The Department of Financial Services (DFS) is required to adopt rules to determine the justification for state officers and employees to attend conferences and conventions.<sup>19</sup> State agencies are required to adopt specific rules for this purpose that do not conflict with rules adopted by DFS.<sup>20</sup>

Travelers are not required to provide notarized documentation of travel expenses, but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler who makes a deliberate misrepresentation is guilty of a second-degree misdemeanor and shall be civilly liable for the amount of overpayment.<sup>21</sup>

### Campaign Finance Reports

Candidates, political committees, and electioneering communications organizations are required to file periodic reports of contributions received and expenditures made.<sup>22</sup> Each candidate and political committee must file reports with the officer before whom the candidate is required by law to qualify.<sup>23</sup>

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<sup>11</sup> Section 112.061(7), F.S.

<sup>12</sup> Section 112.061(7)(a), F.S.

<sup>13</sup> Section 112.061(7)(c), F.S.

<sup>14</sup> Section 112.061(7)(d)1., F.S.

<sup>15</sup> Section 112.061(7)(d)3., F.S.

<sup>16</sup> Section 112.061(8), F.S.

<sup>17</sup> Section 112.061(14)(a), F.S.

<sup>18</sup> Section 112.061(14)(b), F.S.

<sup>19</sup> Section 112.061(9)(a), F.S.

<sup>20</sup> Section 112.061(9)(b), F.S.

<sup>21</sup> Section 112.061(10), F.S.

<sup>22</sup> See ch. 106, F.S.

<sup>23</sup> Section 106.07(2)(a)1., F.S.

Statewide candidates and political committees are required to file campaign finance reports with the Division of Elections (Division).<sup>24</sup> Those candidates and committees must file monthly contribution and expenditure reports until the 60th day before the primary, weekly reports beginning on the 60th day before the primary, and daily contribution reports beginning the 10th day before the general election.<sup>25</sup> Candidates and political committees that are required to file with an entity other than the Division must file reports on the 60th day immediately preceding the primary election, and biweekly on each Friday thereafter with additional reports due on the 25th and 11th days before the primary election and the general election.<sup>26</sup> Electioneering communications organizations<sup>27</sup> and political party executive committee candidates have distinct reporting requirements that differ from candidates and political committees.<sup>28</sup>

### **Effect of Proposed Changes**

The bill requires any out-of-state travel by a county or municipal public officer to be approved by the governing body of the county or municipality at a regularly scheduled meeting. The travel must be approved prior to the officer's travel; however, the officer's travel may be approved at the next regularly scheduled meeting if good cause is shown. Pursuant to the bill, good cause requires a written explanation for why the travel request could not be approved in advance. The request must be included on the meeting agenda and provide an itemized list of all anticipated travel expenses. The bill further requires all county and municipal public officer out-of-state travel approvals to be posted on the county's or municipality's website as soon as practicable, but no later than 10 days after approval, and requires such travel approvals to remain on the applicable website until the end of the next calendar quarter. If a municipality does not maintain a website, the bill requires the travel to be posted on the applicable county's website. The bill provides an exemption from these provisions for elected county constitutional officers.<sup>29</sup>

The bill prohibits payment of or reimbursement for the foreign travel expenses of any county or municipal public officer under any circumstances. The bill provides an exemption from these provisions for elected county constitutional officers.<sup>30</sup>

The bill requires the applicable qualifying officer to post incumbent elected county and municipal public officer campaign finance reports on the qualifying officer's official website. Such reports must be posted on the qualifying officer's website within 10 days after they are filed, and must remain posted until the end of the next calendar quarter after the election for which the candidate qualified. This provision applies to reports the candidate must file for his or her own campaign as well as reports that must be filed by a political committee controlled by the candidate.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 106.07, F.S., concerning posting campaign financial reports to the website of the applicable qualifying officer.

Section 2: Amends s. 112.061, F.S., concerning out-of-state travel by county and municipal officers.

Section 3: Provides an effective date of July 1, 2018.

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<sup>24</sup> Section 106.07(1)(a), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 106.07(1)(b), F.S.

<sup>27</sup> *See* s. 106.011(9), F.S.

<sup>28</sup> *See* ss. 106.0702 and 106.0703, F.S.

<sup>29</sup> The sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court are the constitutional officers of a county. Art. VIII, s. 1(d), Fla. Const.

<sup>30</sup> The sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court are the constitutional officers of a county. Art. VIII, s. 1(d), Fla. Const.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill appears to have an indeterminate fiscal impact on counties and municipalities. The bill appears have an indeterminate but likely insignificant negative fiscal impact due to increased reporting requirements. The bill appears to have an indeterminate positive fiscal impact to the extent the provisions reduce the frequency and cost of out-of-state travel by public officers.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires qualifying officers to provide access to campaign finance reports; however, an exemption may apply since this requirement appears to have an insignificant fiscal impact.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment restructures the provisions of the bill to clarify the ability of the Commission on Ethics to ensure compliance and to require

city commissioners to file CE Form 6. The amendment also removes the \$120 cap on per diem expenses for local government officers and employees and provides an exemption for elected county constitutional officers from certain limitations on travel created by the bill.

On Thursday, February 8, 2018, the Public Integrity & Ethics Committee favorably reported a proposed committee substitute for CS/HB 815. The proposed committee substitute revises CS/HB 815 in the following ways:

- Removes the provisions requiring FORM 6 financial disclosure for municipal candidates and officers;
- Requires incumbent county and municipal officer candidate campaign finance reports be posted on the qualifying officer's website instead of the general purpose government's website;
- Requires county and municipal public officer travel to be approved in advance at a 'regularly scheduled meeting' instead of a 'publicly noticed meeting';
- Provides authority to ratify travel that occurs in between regularly scheduled meetings if 'good cause' is shown;
- Requires approved out-of-state travel to be posted on the county's or municipality's website within 10 days after approval in lieu of reporting to the Commission on Ethics;
- Removes the 24-hour before/after travel limitation. Current law limits expenses to those necessarily incurred in the performance of a public purpose; and
- Removes the prohibition on employee foreign travel.

After favorably reporting the proposed committee substitute, the Public Integrity & Ethics Committee filed CS/CS/HB 815. The bill analysis is drafted to CS/CS/HB 815.