

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 2268

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Ring

SUBJECT: State Employment

DATE: March 12, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	Fav/CS
2.			GA	
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

The bill makes numerous changes to the state employment statutes contained in chs. 110 and 112, F.S.

This bill amends the following sections of the Florida Statutes: 110.105, 110.107, 110.1055, 110.233, 110.1099, 110.112, 110.1127, 110.113, 110.116, 110.117, 110.1245, 110.125, 110.126, 110.127, 110.1315, 110.171, 110.2037, 110.205, 110.211, 110.213, 110.2135, 110.215, 110.217, 110.219, 110.224, 110.227, 110.605, 110.401, 110.402, 110.403, 110.131, 110.122, 11.13, 20.055, 20.21, 20.23, 20.255, 24.105, 24.122, 30.071, 43.16, 104.31, 106.24, 112.044, 112.0805, 112.313, 112.3145, 112.363, 121.021, 121.051, 121.055, 121.35, 145.19, 216.011, 216.181, 287.175, 295.07, 295.09, 296.04, 296.34, 381.00315, 381.85, 394.47865, 402.3057, 402.55, 402.7305, 402.731, 409.1757, 409.9205, 414.37, 427.012, 447.203, 447.207, 447.209, 447.401, 456.048, 570.07, 601.10, 624.307, 624.437, 627.6488, 627.649, 627.6498, 627.6617, 627.6686, 943.0585, 943.059, 945.043, 946.525, 1001.705, 1001.706, 1001.74, 1002.36, 1012.62, 1012.79, 1012.88.

This bill transfers, renumbers, and amends the following sections of the Florida Statutes: 110.405, 110.601, 110.6021, 110.1221, 110.122, 110.121, 110.119, 110.120, 110.1091, 110.151,

110.1225, 110.191, 110.1082, 110.1165, 110.114, 110.1227, 110.1228, 110.123, 110.12312, 110.1232, 110.161, 110.501, 110.502, 110.503, 110.504.

This bill transfers and renumbers the following sections of the Florida Statutes: 110.1128, 110.181, 110.1155, 110.12315, 110.1234, 110.1238, 110.1239.

This bill creates the following sections of Florida Statutes: 110.1056, 110.1065, 110.1135, 110.183, 110.184, 110.202, 110.208, 110.2085, 110.3023, 110.4035, 112.906, 112.922, 112.923, 112.950, 112.965.

This bill repeals the following sections of the Florida Statutes: 110.115, 110.118, 110.124, 110.129, 110.1521, 110.1522, 110.1523, 110.201, 110.2035, 110.21, 110.221, 110.406, 110.603, 110.604, 110.606.

II. Present Situation:

The deployment of executive authority in state government is enmeshed in a series of checks and balances in which no single authority commands exclusive jurisdiction or authority. Executive agencies take three principal forms in terms of leadership: Governor, Governor and Cabinet, and Cabinet Officer. This plurality of leadership is reflected in the distribution of multiple personnel and payroll systems:

Personnel System	Pay Plan(s)	Established Positions
State Personnel System	3	109,476
State Universities	11	42,469
Justice Administration System	6	9,825
State Courts System	2	3,143
Legislature	1	1,699
Lottery	2	436
Others	4	1,606
TOTAL	29	168,654

The Department of Management Services (DMS) in the nominal state employment personnel agency. Created in 1992 from its predecessor Department of Administration and Department of General Services, the agency's Human Resource Management Program (HRM) unit provides general policy guidance to all state agencies on the administration of classification and pay systems, discipline, and professional advancement. Agencies retain the authority to customize the guidance to suit their jurisdictional needs. Other organizational units in the HRM Program deal with pension and insurance benefit management.

The 2001 legislature made significant statutory changes to the state personnel system as part of what was then branded as the *Service First* initiative.¹ Those changes removed designated positions from the civil service; increased benefit compensation for named, exempt positions; banned political considerations in civil service actions; altered appellate rights in personnel

¹ Chapter 2001-43, Laws of Florida

disciplinary cases; and made retention decisions during reduction in force actions a function of overall fitness considerations rather than longevity of prior employment.

No other significant changes to the state personnel statutes have occurred since this time and the intervening years have indicated that practices and procedures that have developed over this decade require reconsiderations to the base statutory authority.

III. Effect of Proposed Changes:

The bill makes statutory cross reference changes or policy reconsiderations to several different functional personnel administration areas in which the Department of Management Services (DMS) is the statutory responsible agency, as follows:

Parental or Family Medical Leave

Section 110.221, F.S., sanctions the use of leave for family medical purposes but does so with respective eligibility under both state and federal FMLA standards. In much the same sense as motor vehicle insurance, these leave provisions are “stacked” upon each other such that an employee may claim cumulative credits. The effect of the changes is to adopt a single standard in federal law – minimum of 12 weeks compared with the current 26 weeks under state law – and, thus, eliminate the dual standards. Agencies may add to the new minimum on an individual basis.

Furlough

A furlough is a reduction in compensated hours and, as such, must be in compliance with s. 110.1225, F.S. A declaration of a furlough is established by the Revenue Estimating Conference created under ch. 216, F.S. The state constitution does not permit a deficit-financed operating budget nor are the actions or reports of the Revenue Estimating Conference an official act of the Legislature itself. The changes to this section eliminate the statutory circumstance that the budget may be in deficit and establishing a furlough as a corrective action to accommodate that situation.

Transfer of Accumulated Compensatory Leave

There are almost one dozen methods of accumulating leave with pay in ch. 60 of the Florida Administrative Code. Compensatory leave is earned for time worked in excess of a 40-hour standard. Its cash value is determined at separation from employment but it may be transferred across state agencies as personnel change locations and employers. The 2001 changes to the Career Service System moved several thousand employees across the personnel classes involuntarily. The value of their accumulated leave also moved as some received promotional increases. Since these leave balances did not decay they increased in value. The effect of these changes provides that subsequent changes would have the accumulated balances paid at the former rate of pay prior to transfer or movement into another personnel system, thus freezing the liability. Unused compensatory leave would be forfeited in the future.

There is no change to earned regular sick and annual leave.

Telework (Telecommuting)

The bill flattens the approval process for the designation and approval of telework programs by the several state agencies.

Civil Service

The bill substitutes the more universal term “Civil Service” for “Career Service System,” to describe the professions and occupations that are non-managerial or supervisory in nature and that are afforded specific statutory procedural and substantive due process protections. The new title also reflects the exact reference to such systems contained in s. 14, art. III, *State Constitution*.

Personnel Administration Rule Approval Process

The bill eliminates approval by the Administration Commission – the Governor and Cabinet – for seven types of rules: suspensions, dismissals, reductions in pay, demotions, layoffs, transfers and grievances. The process for the submission and response to employee grievances is not made mandatory rather than permissive by both employees and employers. An employee who attains a merit status in one position does not carry that permanence to subsequent positions which may be probationary.

Single Pay Cycle

The bill eliminates the presumption that the pay cycle is monthly and permits the development of a uniform cycle upon approval of the Executive Office of the Governor and the Department of Financial Services.

Seasonal and Temporary Workers (OPS)

Removes the 1040-hour annual limitation on Other Personal Services employment but continues the exclusion from state-sponsored benefit plans. Each employing agency will set its own standards for OPS workers.

Senior Management and Selected Exempt positions

Conforming changes made in the bill are applied to these civil service exempt classes and, like career or merit employees they are included in protections afforded by law against political retaliation.

Sick Leave Pools

Removes a one year requirement for participation before drawing leave credits and allows each agency to determine eligibility.

Standards and Measures

Converts the measurement index from “days” to “hours” in various sections to specify how leave for various purposes is to be credited and debited in order to account for variable work schedules that comprise less than one full, eight hour day.

Other Potential Implications:

Chapter 447, F.S., provides the implementing authority for collective bargaining for public employees, authorized by s. 6, Art. I, *State Constitution*. The changes in this bill are being advocated by the Department of Management Services on behalf of the several State of Florida agency public employers. As such, a number of them impact wages, hours, and terms and conditions of employment, all of which are the statutory elements subject to collective bargaining. The agency has advised it has contacted each state agency and each represented employee group for their input on these statutory changes. This is not to suggest that any or all of the employee organizations have concurred or disagreed with the changes. In at least one instance, an employee organization has offered alternative changes, copies of which the department itself provided to legislative staff.

Pending Congressional changes on access to personal health insurance coverage will likely place in jeopardy statutory prohibitions on the eligibility of such part-time, seasonal, and temporary workers for state benefits. The form this will take will require additional clarification and rule-making from federal agencies and these additional costs may be borne by the state employers or shifted directly to other benefit programs sponsored elsewhere.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on March 23, 2010:

The CS reinstates current law on the carrying forward of unused compensatory leave credits when an individual changes jobs or locations and modifies the current law on furloughs contained in ch. 110, F.S., to define the components of a furlough if such actions are initiated.

B. Amendments:

None.