1983

Session Law 83-279

Florida Senate & House of Representatives

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<th>Law No.</th>
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Committee of Ref.: Senate "Pension, Retire, Gov. & Cts." | House "Gov. & Cts., Ag. & Appr."

Committee Records

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Senate/House Journals

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Tape Recordings

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Other Documentation

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I. SUMMARY:

A. Present Situation:

Section 216.011, F.S., defines other-personal-services (OPS) to mean the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This includes, but is not limited to, temporary employees, student or graduate assistants, common or casual labor, consultants, and other services specifically budgeted by each agency in this category.

Florida Statutes do not authorize any agency to regulate OPS employment or require formal reporting of OPS use. The Department of Banking and Finance regulates OPS employment without the authority to do so.

The Department of Administration currently handles personnel matters for employees filling authorized positions.

B. Effect of Proposed Changes:

The definition of other-personal-services (OPS) would be expanded to include fellowships, part-time academic employment, board members, and consultants (all of whom are currently paid out of other-personal-services funds). Common and casual classification would be deleted.

It would place responsibility for regulating OPS employment in the Department of Administration (DOA). Agencies would be prohibited from employing temporary OPS personnel for longer than 1,040 hours (6 months) within any 12-month period without the agency head approval.

An agency head would be authorized to extend an individual OPS employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual would require the approval of DOA.

DOA would be required to adopt rules regulating OPS employment. The rules would specify employment categories, terms, conditions, rate of pay, frequency, and employment...
duration for temporary OPS personnel. The rules would specify terms, conditions, and rate of pay for OPS student or graduate assistants. The rules would prescribe OPS employment record keeping and reporting requirements.

DOA would prepare written material explaining OPS employment rights and benefits and provide master copies to each agency. Agencies would be required to provide a copy of this material to each OPS job applicant and discuss it with him at the time of interview or employment commencement.

DOA would prepare an annual OPS employment report and provide a copy to the Governor, President of the Senate, and Speaker of the House no later than October 15 each year. The report would contain the number of individuals and total amount of compensation, by employment category, for the fiscal year. The report would identify each individual whose initial OPS temporary employment began prior to the start of the fiscal year and who was still employed as an OPS temporary employee at the end of the fiscal year, by name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

II. ECONOMIC IMPACT:
A. Public:
None.

B. Government:

DOA estimates that it would need three Personnel Program Analyst III positions to implement and administer the provisions of this bill. One analyst would be responsible for implementation and administration. The other analysts would be involved in audit functions. DOA estimates salary, expense, and OCO costs of $78,063.

DOA estimates the first-year data processing costs would be approximately $100,000.

III. COMMENTS:
This bill is similar to SB 107 (1983). That bill was reported favorably by the Senate Committee on Governmental Operations and is now in the Senate Committee on Personnel, Retirement and Collective Bargaining.

IV. PREPARED BY Jack Holland

V. STAFF DIRECTOR Jack C. Overstreet
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IV. PREPARED BY Jack Holland

V. STAFF DIRECTOR Jack C. Overstreet
SUBCOMMITTEE REPORT
House of Representatives
File with Parent Committee
To Chairman, Committee on ____________________________
Subcommittee on ____________________________
Date of meeting ____________________________ Wednesday, March 2, 1983
Time ____________________________ Place ____________________________
Bill No. ____________________________

FINAL ACTION: __ FAVORABLE
________ FAVORABLE WITH _______ AMENDMENTS
________ UNFAVORABLE

VOTE:

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<th>YEA</th>
<th>MEMBER</th>
<th>NAY</th>
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<tr>
<td>x</td>
<td>Mr. Abrams</td>
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<td>x</td>
<td>Ms. Davis</td>
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<td>x</td>
<td>Mr. Harris</td>
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<td>x</td>
<td>Mr. Ron Johnson</td>
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<tr>
<td>x</td>
<td>Dr. Lehman</td>
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<tr>
<td>x</td>
<td>Mr. Messersmith</td>
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Total Yeas: 9
Total Nays: 0

SUBCOMMITTEE APPEARANCE RECORD
The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

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<tr>
<th>Name</th>
<th>Representing</th>
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(If additional persons, enter on reverse side and check here __)

NOTE: Please indicate by an "X" any State employee appearing at the request of Subcommittee Chairman

Received by Parent Committee:
Date
Received by

H-74(1976)
**Committee Information Record**

Committee on Governmental Operations

Date of meeting March 29, 1983

Time 1:30 PM

Place 214 Capitol

**Final Action:**

- X Favorable
- ___ Favorable with ___ Amendments
- ___ Favorable with Substitute
- ___ Unfavorable

**Vote:**

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<tr>
<th>Yea</th>
<th>Member</th>
<th>Nay</th>
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<tr>
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<td>Rep. Abrams</td>
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<td>Rep. Carlton</td>
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<td>X</td>
<td>Rep. Clements</td>
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<td>Rep. Crotty</td>
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<tr>
<td>X</td>
<td>Rep. Davis</td>
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<td>X</td>
<td>Rep. Hanson</td>
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<td>X</td>
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<td>Rep. Jamerson</td>
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<tr>
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<td>Rep. Ros</td>
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Total Yea 16
Total Nay 0

Chairman

**Committee Appearance Record**

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
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<th>Address</th>
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</thead>
<tbody>
<tr>
<td>George Haynie</td>
<td>Comptroller's Office</td>
<td>Tallahassee</td>
</tr>
</tbody>
</table>

**NOTE:** Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(File additional persons, enter on reverse side and check here.)
Mr. Speaker, Members of the House, this bill deals with Other Personal Services, better known as OPS, and would place accountability into the current system. It would require that the Legislature be informed annually on the status of this special work force by letting us know how many people we have in this category; where they are located; and, what they are doing. It would continue to provide flexibility needed by an agency in hiring temporary help; but, the method under which these people are hired would be uniform and understood by both the employing agency and the individual hired. It would allow a department to hire and extend needed OPS employees in a given category for a total of 2080 hours, the equivalent of one year. If an additional extension beyond 2080 hours was needed it would have to be approved by the Department of Administration.

The bill has taken in consideration special situations and certain categories under the Board of Regents and the Florida School for the Deaf and Blind.

The bill is a work product of both Governmental Operations and Retirement, Personnel and Collective Bargaining Committees.
Mr. Speaker, we have recognized the need to provide agencies with flexibility to accomplish fast start ups; meet nonrecurring projects; and, many other tasks assigned to them by the Governor and the Legislature. This need for flexibility cannot overshadow the need for accountability. Establishing the authority for making and administering the rules for OPS into one department will strengthen the accountability process. Requiring a detailed reporting system will insure adequate data to make evaluations for future funding and planning. This bill would provide all of this.
MEMORANDUM

TO: Jack C. Overstreet
FROM: Jack Holland
DATE: November 15, 1983
RE: OPS

With the passage of SB 107, the OPS bill, the Department of Administration was required to adopt rules to implement the law by December 31, 1983.

On September 16, 1983, people from the department met with people from both houses of the Legislature to discuss the proposed rules. Those attending from the department were Shawn Newman and Paul Keith. Those persons attending from the Legislature's staffs included: David Jones, Senate Personnel, Retirement, and C. B.; Carolyn Aidman, House Retirement; Tom Becia, Senate Governmental Operations; Nancy McKee, House Appropriations; Theresa Frederick, House Appropriations; and Jack Holland, House Governmental Operations.

At the September 16th meeting it was pointed out by staff that several interpretations of the law were not in agreement with the intent of the drafters of the legislation. After the meeting was concluded it appeared that an agreement for changes in the proposed rules had been reached. These changes were to be reflected in the rules before being presented to the Administration Commission for approval.

The department drew up the proposed rules and held a workshop on October 7, 1983, to clarify their proposal with interested people. Even though the workshop was held and legislative staff input was received, the proposed rule did not reflect that input.
The rules were agendaed before the Administration Commission with no substantive changes for November 17, 1983. Telephone calls were made to Donna Spooner and Barbara Foster of the Governor's Planning and Budgeting unit, and to Carroll Webb, the executive director of the Joint Administrative Procedures Committee. The calls informed them of the concerns about the OPS legislation shared by legislative staffers.

Following the telephone discussions between the Governor's people and key staffers from the Legislature, it was agreed the proposed rules were unacceptable and did not meet the intent of the law. It was further discussed and agreed to contact the Joint Administrative Procedures Committee and state the mutual concerns in this case.

I made the initial contact with the JAPC. Steve Kelly, a staffer for JAPC, subsequently met with me and discussed his concerns about the proposed OPS rules. He listened to the concerns I held about the rules. He agreed that the Governor's key people in the matter and the key legislative staffers who worked with the legislation should meet with him to see if the apparent impasse in the proposed rules could be resolved. I contacted Spooner and Foster and shared this meeting's information with them and obtained their reaction. Spooner stated that she would contact Kelly and set up the meeting and notify all participants.

The meeting was set for Monday, November 7th. Thursday, before the Monday meeting, it was cancelled and would be rescheduled when Kelly was available to meet. This meeting is still pending.

I was contacted by Jere Moore, the Governor's Cabinet Liaison person, to meet with him to discuss the status of the OPS rules. I met with Moore and a Governor's attorney and discussed the concerns I had with the proposed OPS rules. They agreed with my concerns. Moore, on the advise of the attorney, stated he was going to recommend the removal of the rules from the November 17th agenda. He further added he would push to have a meeting of DOA and Planning and Budgeting with JAPC and legislative staffers to work out appropriate rules. No date has been set for this meeting.

Moore stated that he was hopeful of getting the matter resolved before the last meeting of the Administration Commission on November 29th.

The legislative people are waiting for the changes to be incorporated into the proposed rules; after which both meetings will be scheduled.

JH:jp
Areas of Concern with the Proposed OPS Rules

1. The need for clarification of "agency head" as used in Chapter 83-279, Laws of Florida.

2. Clarification on the point of 2080 hours versus 12 months in Section 22K-20.02(4) of proposed rule.

3. Clarification of local labor market versus "career service" in Section 22K-20.06(2) of proposed rule.

4. The need for the removal of Section 22K-20.06(3) of proposed rule.

5. The need for the insertion of, "for an identifiable time period or," in Section 22K-20.07(3)(a) of proposed rule.

6. The need for the removal of the last sentence in Section 22K-20.07(4) of proposed rule.
A bill to be entitled

An act relating to other-personal-services employment; amending s. 216.011(1)(o), Florida Statutes; modifying the definition of "other personal services"; providing definitions; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (o) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.--

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the following terms shall have the meaning indicated:

(c) "Other personal services" means the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This shall include, but not be limited to, temporary employees, student or graduate assistants, fellowships, part-time academic employment, board members, consultants, common or casual labor, consultant fees, and other services specifically budgeted by each agency in this category.

1. In distinguishing between payments to be made from salaries appropriation and other-personal-services

CODING Words in struck through type are deletions from existing law, words underlined are additions.
appropriation, those persons filling an established position shall be paid from salaries appropriations and those persons performing services for a state agency, but who are not filling an established position, shall be paid from the other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

Section 2. Definitions.--As used in this act:

(1) "Agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) "Department" means the Department of Administration.

Section 3. No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding the extension of other-personal-services temporary employment beyond 1,040 hours. The time limitation established by this section shall not apply to student or graduate assistants, fellowships, part-time academic employment, board members, or consultants.
Section 4. The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks and that tasks for which there is a continuing need should constitute full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in section 3; specify terms, conditions, and rate of pay for other-personal-services student or graduate assistants; and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

Section 5. The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained thereon with each applicant at the time of interview or employment commencement, whichever occurs sooner.

Section 6. The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than October 15 of each year, beginning in 1984.
The report shall include, but not be limited to, the following data for each agency by budget entity with an agency summary for the preceding fiscal year:

1. The number of individuals, and full-time equivalent, employed as other-personal-services personnel, by employment category, for each month of the fiscal year.

2. The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.

3. For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

Section 7. This act shall take effect July 1, 1983.
SENATE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
A bill to be entitled
An act relating to other-personal-services employment; amending s. 216.011(1)(o), Florida Statutes; modifying the definition of "other personal services"; providing definitions; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an effective date.

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(2) The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.

(3) For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

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HOUSE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
A bill to be entitled An act relating to other-personal-services employment; amending s. 216.011(1)(o), Florida Statutes, modifying the definition of "other personal services"; creating s. 110.131, Florida Statutes, defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an effective date.

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CODING Words in struck through type are deletions from existing law, words underlined are additions.
1. In distinguishing between payments to be made from salaries appropriation and other-personal-services appropriation, those persons filling an established position shall be paid from salaries appropriations and those persons performing services for a state agency, but who are not filling an established position, shall be paid from the other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

Section 2. Section 110.131, Florida Statutes, is created to read:

110.131 Other-personal-services temporary employment.—

(1) As used in this section, "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual's other-personal-services employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria.
established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this section shall not apply to student or graduate assistants, fellowships, part-time academic employment, board members, or consultants.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in section 3; specify terms, conditions, and rate of pay for other-personal-services student or graduate assistants; and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

(4) The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained therein.
thereon with each applicant at the time of interview or
employment commencement, whichever occurs sooner.

(5) The department shall prepare an annual other-
personal-services employment report and provide a copy thereof
to the Executive Office of the Governor, the President of the
Senate, and the Speaker of the House of Representatives not
later than October 15 of each year, beginning in 1984. The
report shall include, but not be limited to, the following
data for each agency by budget entity with an agency summary
for the preceding fiscal year:

(a) The number of individuals, and full-time
equivalent, employed as other-personal-services personnel, by
employment category, for each month of the fiscal year.

(b) The total amount of compensation for other-
personal-services personnel, by employment category, for the
fiscal year.

(c) For each individual whose initial other-personal-
services temporary employment began prior to the start of the
fiscal year covered and who was still employed as an other-
personal-services temporary employee at the end of the fiscal
year covered, the name, social security number, employment
category, employment commencement date, and number of hours
worked in each fiscal year employed.

Section 3. This act shall take effect July 1, 1983.
HOUSE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
A bill to be entitled
An act relating to other-personal-services employment; creating s. 110.131, Florida Statutes; defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an exception; amending s. 216.011(1)(o), Florida Statutes, modifying the definition of "other personal services"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 110.131, Florida Statutes, is created to read:

110.131 Other-personal-services temporary employment. --

(1) As used in this section, "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual's other-
personal-services employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this subsection shall not apply to board members or consultants.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in subsection (2); and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

(4) The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained
thereon with each applicant at the time of interview or employment commencement, whichever occurs sooner.

(5) The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than October 15 of each year, beginning in 1984. The report shall include, but not be limited to, the following data for each agency by budget entity with an agency summary for the preceding fiscal year:

(a) The number of individuals, and full-time equivalent, employed as other-personal-services personnel, by employment category, for each month of the fiscal year.

(b) The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.

(c) For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

(6) The provisions of subsections (2), (3), and (4) shall not apply to any employee for whom the Board of Regents or the Board of Trustees of the Florida School for the Deaf and the Blind is the employer as defined in s. 447.203(2); except that, for purposes of subsection (5), the Board of Regents and the Board of Trustees of the Florida School for the Deaf and the Blind shall, with respect to those other-personal-services employees exempted by this subsection,
Section 2. Paragraph (o) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

192-259D-4-3 1.69 216.011 Definitions.-- 1.70 1.71 (1) For the purpose of fiscal affairs of the state, 1.72 appropriations acts, legislative budgets, and approved 1.73 budgets, the following terms shall have the meaning indicated: 1.74 (o) "Other personal services" means the compensation 1.75 for services rendered by a person who is not a regular or 1.76 full-time employee filling an established position. This 1.77 shall include, but not be limited to, temporary employees, 1.78 student or graduate assistants, fellowships, part-time 1.79 academic employment, board members, consultants, common-or 1.80 easual labor, consultant fees, and other services specifically 1.81 budgeted by each agency in this category.

1. In distinguishing between payments to be made from 1.82 salaries appropriation and other-personal-services 1.83 appropriation, those persons filling an established position 1.84 shall be paid from salaries appropriations and those persons 1.85 performing services for a state agency, but who are not 1.86 filling an established position, shall be paid from the other- 1.87 personal-services appropriations.

2. It is further intended that those persons paid from 2.1 salaries appropriations shall be state officers or employees 2.2 and shall be eligible for membership in a state retirement 2.3 system and those paid from other-personal-services 2.4 appropriations shall not be eligible for such membership.

Section 3. This act shall take effect July 1, 1983. 2.6
HOUSE SUMMARY
Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
A bill to be entitled

An act relating to other-personal-services employment; amending s. 216.011(1)(o), Florida Statutes; modifying the definition of "other personal services"; providing definitions; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (o) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.--

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the following terms shall have the meaning indicated:

(o) "Other personal services" means the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This shall include, but not be limited to, temporary employees, student or graduate assistants, fellowships, part-time academic employment, board members, consultants, common or casual labor, consultant fees, and other services specifically budgeted by each agency in this category.

1. In distinguishing between payments to be made from salaries appropriation and other-personal-services...
appropriation, those persons filling an established position shall be paid from salaries appropriations and those persons performing services for a state agency, but who are not filling an established position, shall be paid from the other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

Section 2. Definitions.--As used in this act:

(1) "Agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) "Department" means the Department of Administration.

Section 3. No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual’s other-personal-services employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this section

CODING Words in struck through type are deletions from existing law, words underlined are additions.
shall not apply to student or graduate assistants, fellowships, part-time academic employment, board members, or consultants.

Section 4. The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in section 3; specify terms, conditions, and rate of pay for other-personal-services student or graduate assistants; and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

Section 5. The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained thereon with each applicant at the time of interview or employment commencement, whichever occurs sooner.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
Section 6. The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than October 15 of each year, beginning in 1984. The report shall include, but not be limited to, the following data for each agency by budget entity with an agency summary for the preceding fiscal year:

1. The number of individuals, and full-time equivalent, employed as other-personal-services personnel, by employment category, for each month of the fiscal year.
2. The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.
3. For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

Section 7. This act shall take effect July 1, 1983.
I. SUMMARY:

A. Present Situation:

Section 216.011, F.S., defines other-personal-services (OPS) to mean the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This includes, but is not limited to, temporary employees, student or graduate assistants, common or casual labor, consultants, and other services specifically budgeted by each agency in this category.

Florida Statutes do not authorize any agency to regulate OPS employment or require formal reporting of OPS use. The Department of Banking and Finance regulates OPS employment without the authority to do so.

The Department of Administration currently handles personnel matters for employees filling authorized positions.

B. Effect of Proposed Changes:

The definition of other-personal-services (OPS) would be expanded to include fellowships, part-time academic employment, board members, and consultants (all of whom are currently paid out of other-personal-services funds). Common and casual classification would be deleted.

It would place responsibility for regulating OPS employment in the Department of Administration (DOA). Agencies would be prohibited from employing temporary OPS personnel for longer than 1,040 hours (6 months) within any 12-month period without the agency head approval.

An agency head would be authorized to extend an individual OPS employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual would require the approval of DOA.

DOA would be required to adopt rules regulating OPS employment. The rules would specify employment categories, terms, conditions, rate of pay, frequency, and employment
duration for temporary OPS personnel. The rules would specify terms, conditions, and rate of pay for OPS student or graduate assistants. The rules would prescribe OPS employment record keeping and reporting requirements.

DOA would prepare written material explaining OPS employment rights and benefits and provide master copies to each agency. Agencies would be required to provide a copy of this material to each OPS job applicant and discuss it with him at the time of interview or employment commencement.

DOA would prepare an annual OPS employment report and provide a copy to the Governor, President of the Senate, and Speaker of the House no later than October 15 each year. The report would contain the number of individuals and total amount of compensation, by employment category, for the fiscal year. The report would identify each individual whose initial OPS temporary employment began prior to the start of the fiscal year and who was still employed as an OPS temporary employee at the end of the fiscal year, by name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

DOA estimates that it would need three Personnel Program Analyst III positions to implement and administer the provisions of this bill. One analyst would be responsible for implementation and administration. The other analysts would be involved in audit functions. DOA estimates salary, expense, and OCO costs of $78,063.

DOA estimates the first-year data processing costs would be approximately $100,000.

III. COMMENTS:

This bill is similar to SB 107 (1983). That bill was reported favorably by the Senate Committee on Governmental Operations and is now in the Senate Committee on Personnel, Retirement and Collective Bargaining.

IV. PREPARED BY Jack Holland

V. STAFF DIRECTOR Jack C. Overstreet
A bill to be entitled
An act relating to other-personal-services employment; creating s. 110.131, Florida Statutes; defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an exception; amending s. 216.011(1)(c), Florida Statutes, modifying the definition of "other personal services"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 110.131, Florida Statutes, is created to read:

110.131 Other-personal-services temporary employment. --

(1) As used in this section, "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual's other-
personal-services employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this subsection shall not apply to board members or consultants.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in subsection (2); and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

(4) The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained
thereon with each applicant at the time of interview or employment commencement, whichever occurs sooner.

(5) The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than October 15 of each year, beginning in 1984. The report shall include, but not be limited to, the following data for each agency by budget entity with an agency summary for the preceding fiscal year:

(a) The number of individuals, and full-time equivalent, employed as other-personal-services personnel, by employment category, for each month of the fiscal year.

(b) The total amount of compensation for other-personal-services personnel, by employment category, for the fiscal year.

(c) For each individual whose initial other-personal-services temporary employment began prior to the start of the fiscal year covered and who was still employed as an other-personal-services temporary employee at the end of the fiscal year covered, the name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

(6) The provisions of subsections (2), (3), and (4) shall not apply to any employee for whom the Board of Regents or the Board of Trustees of the Florida School for the Deaf and the Blind is the employer as defined in s. 447.203(2); except that, for purposes of subsection (5), the Board of Regents and the Board of Trustees of the Florida School for the Deaf and the Blind shall, with respect to those other-personal-services employees exempted by this subsection,
comply with the recordkeeping and reporting requirements adopted by the department pursuant to subsection (3).

Section 2. Paragraph (o) of subsection (l) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(l) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the following terms shall have the meaning indicated:

(o) "Other personal services" means the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This shall include, but not be limited to, temporary employees, student or graduate assistants, fellowships, part-time academic employment, board members, consultants, common- or essential-labor-consultant-fees, and other services specifically budgeted by each agency in this category.

1. In distinguishing between payments to be made from salaries appropriation and other-personal-services appropriation, those persons filling an established position shall be paid from salaries appropriations and those persons performing services for a state agency, but who are not filling an established position, shall be paid from the other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

Section 3. This act shall take effect July 1, 1983.
HOUSE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
I. SUMMARY:

A. Present Situation:

Section 216.011, F.S., defines other-personal-services (OPS) to mean the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This includes, but is not limited to, temporary employees, student or graduate assistants, common or casual labor, consultants, and other services specifically budgeted by each agency in this category.

Florida Statutes do not authorize any agency to regulate OPS employment or require formal reporting of OPS use. The Department of Banking and Finance regulates OPS employment without the authority to do so.

The Department of Administration currently handles personnel matters for employees filling authorized positions.

B. Effect of Proposed Changes:

The definition of other-personal-services (OPS) would be expanded to include fellowships, part-time academic employment, board members, and consultants (all of whom are currently paid out of other-personal-services funds). Common and casual classification would be deleted.

The bill would place responsibility for regulating OPS employment in the Department of Administration (DOA). Agencies would be prohibited from employing temporary OPS personnel for longer than 1,040 hours (6 months) within any 12-month period without the agency head approval.

An agency head would be authorized to extend an individual OPS employment for no more than 1,040 hours. Extension beyond a total of 2,080 hours for any individual would require the approval of DOA.
DOA would be required to adopt rules regulating OPS employment. The rules would specify employment categories, terms, conditions, rate of pay, frequency, and employment duration for temporary OPS personnel. The rules would specify terms, conditions, and rate of pay for OPS student or graduate assistants. The rules would prescribe OPS employment record keeping and reporting requirements.

DOA would prepare written material explaining OPS employment rights and benefits and provide master copies to each agency. Agencies would be required to provide a copy of this material to each OPS job applicant and discuss it with him at the time of interview or employment commencement.

DOA would prepare an annual OPS employment report and provide a copy to the Governor, President of the Senate, and Speaker of the House no later than October 15 each year. The report would identify each individual whose initial OPS temporary employment began prior to the start of the fiscal year and who was still employed as an OPS temporary employee at the end of the fiscal year, by name, social security number, employment category, employment commencement date, and number of hours worked in each fiscal year employed.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

DOA estimates that it would need three Personnel Program Analyst III positions to implement and administer the provisions of this bill. One analyst would be responsible for implementation and administration. The other analysts would be involved in audit functions. DOA estimates salary, expense and OCO costs of $78,063.

DOA estimates the first-year data processing costs would be approximately $100,000.

III. COMMENTS:

This bill is similar to SB 107 (1983). SB 107 was reported favorably by the Senate Committee on Governmental Operations, passed the Senate, received in House Messages, and referred to the House Committee on Governmental Operations. HB 1040 was reported favorably by the House
Committee on Appropriations and placed on the Calendar. The two bills were similar. The difference was the House bill required the agency head to approve extensions; the Senate version left it to the organizational unit's head to approve any extensions. The House withdrew SB 107 from the House Governmental Operations Committee; struck everything after the enacting clause and inserted HB 1040 language. The Senate accepted and passed the amended Senate bill.

The passage of this piece of legislation affects Chapters 110 and 216, Florida Statutes.

IV. PREPARED BY Jack Holland

V. STAFF DIRECTOR Jack C. Overstreet
A bill to be entitled
An act relating to other-personal-services employment; creating s. 110.131, Florida Statutes; defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an exception; amending s. 216.011(1)(o), Florida Statutes, modifying the definition of "other personal services"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 110.131, Florida Statutes, is created to read:

110.131 Other-personal-services temporary employment.--

(1) As used in this section, "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; and the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature.

(2) No agency shall employ any individual for other-personal-services temporary employment for more than 1,040 hours within any 12-month period without the approval of the agency head. An agency head may extend an individual's other-

CODING Words in struck through type are deletions from existing law, words underlined are additions.
personal-services employment for no more than 1,040 hours.

Extension beyond a total of 2,080 hours for any individual shall require the approval of the department. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this subsection shall not apply to board members or consultants.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship should be used for short-term tasks. Tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights. Such rules shall specify employment categories, terms, conditions, rate of pay, frequency, and duration that other-personal-services temporary employment may occur; specify criteria for approving extensions beyond the time limitation provided in subsection (2); and prescribe recordkeeping and reporting requirements for other-personal-services employment. Such rules shall be approved by the Administration Commission and shall be adopted not later than December 31, 1983.

(4) The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide master copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof at the time of application and shall discuss the information contained
thereon with each applicant at the time of interview or
employment commencement, whichever occurs sooner.

(5) The department shall prepare an annual other-
personal-services employment report and provide a copy thereof
to the Executive Office of the Governor, the President of the
Senate, and the Speaker of the House of Representatives not
later than October 15 of each year, beginning in 1984. The
report shall include, but not be limited to, the following
data for each agency by budget entity with an agency summary
for the preceding fiscal year:

(a) The number of individuals, and full-time
 equivalent, employed as other-personal-services personnel, by
employment category, for each month of the fiscal year.

(b) The total amount of compensation for other-
personal-services personnel, by employment category, for the
fiscal year.

(c) For each individual whose initial other-personal-
services temporary employment began prior to the start of the
fiscal year covered and who was still employed as an other-
personal-services temporary employee at the end of the fiscal
year covered, the name, social security number, employment
category, employment commencement date, and number of hours
worked in each fiscal year employed.

(6) The provisions of subsections (2), (3), and (4)
shall not apply to any employee for whom the Board of Regents
or the Board of Trustees of the Florida School for the Deaf
and the Blind is the employer as defined in s. 447.203(2):
except that, for purposes of subsection (5), the Board of
Regents and the Board of Trustees of the Florida School for
the Deaf and the Blind shall, with respect to those other-
personal-services employees exempted by this subsection,
comply with the recordkeeping and reporting requirements
adopted by the department pursuant to subsection (3).

Section 2. Paragraph (o) of subsection (1) of section
216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state,
appropriations acts, legislative budgets, and approved
budgets, the following terms shall have the meaning indicated:

(o) "Other personal services" means the compensation
for services rendered by a person who is not a regular or
full-time employee filling an established position. This
shall include, but not be limited to, temporary employees,
student or graduate assistants, fellowships, part-time
academic employment, board members, consultants, common-or
equal-labor-consultant-fees and other services specifically
budgeted by each agency in this category.

1. In distinguishing between payments to be made from
salaries appropriation and other-personal-services
appropriation, those persons filling an established position
shall be paid from salaries appropriations and those persons
performing services for a state agency, but who are not
filling an established position, shall be paid from the other-
personal-services appropriations.

2. It is further intended that those persons paid from
salaries appropriations shall be state officers or employees
and shall be eligible for membership in a state retirement
system and those paid from other-personal-services
appropriations shall not be eligible for such membership.

Section 3. This act shall take effect July 1, 1983.
HOUSE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.
The Committee on Governmental Operations recommended the following amendment which was moved by Senator Gersten and adopted:

Amendment

On page ___, line ___, strike department

and insert:

agency head ___ his designee

Amendment No. 3, taken up by committee: Adopted  Failed
Offered by Senator  Date: February 1, 1983
The Committee on Governmental Operations recommended the following amendment which was moved by and adopted:

Amendment

On page 2, between lines 19 & 20, strike...and insert:

(3) "Organizational unit" means the lowest principal unit established within an agency as described in section 20.04, Florida Statutes.
SENATE COMMITTEE AMENDMENT

Above the line: Proposed Amendment from Governor's Office

The Committee on Governmental Operations recommended the following amendment which was moved by and adopted:

Amendment

On page 2, line 21, strike

and insert:

after the word "employment":

and insert:

with any organizational unit

Amendment No. 1, taken up by committee:

Offered by Senator

Date: February 1, 1983
SENATE COMMITTEE AMENDMENT

The Committee on [Committee Name] recommended the following amendment which was moved by [Mover's Name] and adopted:

Amendment

On page ___, line ___3__, strike

a
b
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f
g       after the word "assistants"

and insert:

1      employed by any agency other than the State University

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NOT OFFERED

Amendment No. ______, taken up by committee: _______Adopted _______Failed

Offered by ____________ Senator__________ Date: February 1, 1983
I'm Barbara Foster with the Governor's Office. We conducted a study of OPS uses in the state a year ago. In reviewing this bill, reading that in section 3, no agency shall employ an individual for OPS for more than 1,040 hours within a 12 month year would preclude a person working for an agency more than 6 months out of the year. We were a bit concerned in that we would like to see regulation in terms of, if someone is being hired for tasks which are continuing throughout a year then that should be a position. However, if an individual wanted to work for an agency in one capacity for a few months here, then move to another capacity or another organizational unit at another point in time, they should be allowed to do so. We did not want to restrict employees from working within the same agency for year after year if that's what they wanted to do. However, we did not want subverting the regular work force system of if you have tasks which are year long in nature then that should constitute a regular position. So we were proposing a change to section 3 that would say instead of 'no agency shall employ an individual for more than 1,040 hours within any 12 month period.' We would change that to say that no agency shall employ any individual for other-personal-services temporary employment within any organizational unit. Meaning a section or a division depending upon how a department is broken down could employ someone for a maximum of 6 months. And then if that person wanted to work in a separate division or sec-
tion, then they could go work over there for 6 months. We didn't want to restrict the employment of an individual.

Senator Henderson: Well isn't it really saying that OPS would continue exactly as it is today because you would simply shift within units?

Barbara Foster: It could. What we're trying to restrict is what you might consider a misuse of the system which would come about if you had tasks that would occur for an entire year; then that should be a position. However, if those tasks are in two separate sections of an agency, then those aren't necessarily a position. And if that person wanted to work in those two different capacities at different times during the year, we didn't want to prohibit that. And what this would do would stop anyone from working with an agency for more than 6 months, period.

Senator Henderson: Suppose we thought there was a unit of government that didn't have any organized units, that might put them in a bind. The Department of Legal Affairs I'm told doesn't have units.

Barbara Foster: They are not governed by any principal unit? Because the way agency was defined, it would allow for a commission, and I guess Legal Affairs, which would be one unit itself, meaning a person would be precluded from working.

Senator Henderson: If its not further broken down then they obviously couldn't work more than 6 months.
Foster: It would be the principal unit and they couldn't work within Legal Affairs for more than 6 months.

Chairman: And your other amendment just defines Organizational Unit.

Foster: Right. Up within definitions then we would need to define organizational unit so that we're all operating from the same base. And we're taking the definition in chapter 20.

Chairman: OK.
MEMORANDUM

TO: File
FROM: Tom Becia
RE: DOA Rules Implementing CS/SB 107 (1983)

CS/SB 107, ch. 83-279, L.O.F., was the product of an interim project which related to the state's OPS policies. Its purposes were to assign responsibility for regulating OPS employment to the Department of Administration, to require review and approval of OPS temporary employment extending beyond 1,040 hours within any 12-month period, to require the provision of notice of OPS employment rights and benefits, and to require an annual OPS report.

The bill requires DOA to adopt rules requiring that OPS temporary employment should be used for short-term tasks. The bill also states, "tasks for which there is a continuing need for a definite period of time should be considered as full-time or part-time positions subject to the same rate of pay and monetary benefits as comparable positions in the state classification plan, but without retention rights." This language was inserted at the request of Barbara Foster and Donna Spooner of the Executive Office of the Governor. DOA General Counsel, Dan Brown, was present and participated in the discussion. The language was intended to state philosophically that persons employed for tasks which were known to be long-term, but for a time limited duration should receive certain benefits. It was not intended to require that for OPS temporary employees who worked more than a set number of hours and did not indicate the point at which employment should be considered long-term. Mr. Brown did not make any statement indicating a belief that the inclusion of that sentence would require payment of the same rate of pay and monetary benefits as comparable positions in the state classification plan when an OPS temporary employee worked more than a set number of hours.

A meeting was held on September 16, 1983, at the request of DOA, to clarify the legislative intent of that sentence. Participants included David Jones and Carolyn Aidman of the Senate and House personnel committees, Jack Holland of the House Governmental Operations Committee, Teresa Frederick and Nancy McKee of the House Appropriations Committee, Shawn Bass Newman and Paul Keith of DOA, and myself. All staff members of the substantive legislative
committees said that the Legislature did not intend to require payment of the same rate of pay and monetary benefits as comparable positions in the state classification plan to OPS temporary employees who worked more than a set number of hours.

On October 5, 1983, the Tallahassee Democrat published a story reporting that the inclusion of that language, according to DOA officials, "implies that after a year, temporary employees can get the same monetary benefits as full-time Career Service workers." Bebe Blount, chief of the Bureau of Human Resource Management Improvement, was quoted as saying, "To give them the same benefits as Career Service workers could prove to be a significant cost." Ms. Blount apparently told the newspaper that one would get an idea of the expense by adding about 10 percent to the $193 million which the state paid for more than 20,000 temporary workers in FY 1980-81.

DOA held a rule workshop on October 7, 1983. Its proposed rules required payment of "the same rate of pay and monetary benefits as comparable classes in the Career Service or Judicial Pay Plans whichever is applicable" to OPS employees extended beyond 2,080 hours. The rule also authorized OPS employment extensions beyond 1,040 hours upon documentation of a "critical need" and extensions beyond 2,080 hours upon documentation of a "critical need" and that the position "will be recommended as an authorized salaried position and included in the next legislative budget request." I advised DOA that I did not believe the Legislature intended to require payment for OPS employment in accordance with the proposed rule. I noted the presence of their general counsel when the language was inserted; the lack of any suggestion of such a requirement in any analysis of the bill, including the department's own analysis; and the fact that, to the best of my knowledge, there was no committee or floor discussion of any such requirement. I also advised DOA that I felt their employment extension criteria appeared to go beyond the intent of the bill by preventing non-critical extensions which would be beneficial to the accomplishment of the task and in the best interest of the state and by preventing extensions beyond 2,080 hours if the position would not be required on a permanent basis. Finally, I told DOA that, upon a request from them, we would furnish an "official" statement of legislative intent. No request was made.

I advised Howard Walton of the status of the controversy on October 10, 1983.

The department held its rule hearing on October 31, 1983. I was unable to attend, but was advised by Ms. Blount that the department made a few minor changes to the rule. I do not yet know what those changes are.

A meeting will be held on November 7, 1983, to discuss legislative intent with the Administrative Procedures Committee. Invitees include Mr. Jones, Ms. Aidman, Mr. Holland, Ms. Foster, Ms. Spooner, Steve Riley of the APC, and myself.
DOA intends to seek Administration Commission approval of its rule on November 17, 1983.

TB/vc

cc: Senator Henderson
    Jane Hayman
MEMORANDUM

TO: Representative Gene Hodges
FROM: Mike Cusick
DATE: November 16, 1982
RE: Governmental Operations Committee Activities

Attached is a brief report on the issues that the Committee addressed during the 1982 Session, present and proposed studies, and anticipated issues for the 1983 Session. This briefing packet is not designed to be exhaustive but merely to provide an overview of several major issues within the scope of responsibility of this Committee.

Also, I have attached a copy of the memo recently requested from the Speaker regarding major issues addressed by the Committee.

I hope this information proves helpful and please do not hesitate to contact me should there be any questions.

MC:jp

Attachments
PRESENT STUDIES
OTHER PERSONAL SERVICES

Issue:

Other Personal Services (OPS) is necessary and useful. Agencies are provided with flexibility not provided in the Career Service System. Under this system, agencies do not need to request positions from the Legislature. Wages are established by the agency rather than externally imposed. This offers those agencies such capabilities as:

-- quick response to peak workloads;
-- rapid start up and easy termination of projects;
-- acquisition of services from technical experts; who would not be needed permanently;
-- obtaining more dollars spent because of the savings of not paying career service benefits.

Even though this system is beneficial, more accountability is necessary in order to follow the intent of the law. The rule for limiting the time of employment is not effective given that very few extensions requests are denied. Given current accounting, reporting and budgeting procedures, it is not possible to determine the extent (number of employees, level of effort, type of effort, amount) of OPS use.

Discussion:
The OPS system needs modification. Currently, it is possible for an agency to employ a secondary work force not authorized by the Legislature.

The Governor's Office has published a report on Florida's OPS system (August, 1982). The report stresses the need for increased accountability in the OPS System. The report deals essentially with 2 components of the OPS system: 1) Payroll and Accounting; and 2) Employment.

With regard to Payroll and Accounting, the report recommends that only disbursements for temporary employment should be withdrawn from the OPS budget. Other uses, such as salary incentive payments and overtime pay, should be discontinued.

With regard to employment, each agency should have a list of OPS employment positions and each individual's pay and termination date. The terms of OPS employment should be in writing and explained to the employee by the supervisor. This notification process would ensure that the limitations of OPS employment are understood.

Last legislative session, an amendment initiated from the Governor's Office, was proposed on SB 216 and SB 134. The amendment would have allowed the Department of Administration to adopt rules specifying the manner, frequency, and duration that persons paid by OPS funds could be employed. Students and graduate assistants were exempted this action. The amendment did not meet opposition, but unfortunately the legislative proposals on which it was placed died in the Senate.
A separate vehicle is needed to remedy this accounting problem in the OPS system.
I. SUMMARY:

A. Present Situation:

The Department of Banking and Finance currently regulates OPS employment, although it has no statutory authority to do so. A staff review of OPS regulation found that the lack of authority to regulate makes the department's efforts ineffective. The review also found that OPS employment policy among and within state agencies is inconsistent. The long-term employment of OPS personnel was reported in 17 agencies and institutions.

Personnel matters for employees filling authorized positions are handled by the Department of Administration.

B. Effect of Proposed Changes:

The Department of Administration would be required to adopt rules to regulate OPS employment not later than September 30, 1983. Agencies would be prohibited from employing temporary, common, casual, seasonal, or custodial OPS personnel for longer than 1,040 hours (6 months) within any 12-month period without the approval of the Department of Administration.

The Department of Administration would prepare written material explaining OPS employment rights and benefits and agencies would be required to provide a copy to OPS job applicants.

The Department of Administration would prepare an annual OPS report reflecting the number of individuals employed, the number of full-time equivalent positions, the total amount of compensation, and detailed information on certain persons employed for more than 1 year on OPS.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None

B. Government:

The Department of Administration would have to pay the nonrecurring costs of rule adoption, preparation of written material explaining OPS, development of a suitable computer program, and an annual publication cost for its OPS report. These costs have not yet been quantified, but should be insignificant.

III. COMMENTS:

None

IV. AMENDMENTS:

None
A bill to be entitled
An act relating to other-personal-services employment; providing definitions; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal-services employment; providing for an annual report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.—As used in this act:
(1) "Agency" shall have the same meaning as provided in section 216.011, Florida Statutes.
(2) "Department" shall mean the Department of Administration.

Section 2. No agency shall employ any individual as an other-personal-services temporary, common, casual, seasonal, or custodial employee for more than 1,040 hours within any 12-month period without the approval of the department.

Section 3. The department shall adopt rules regulating other-personal-services employment. Such rules shall be adopted not later than September 30, 1983.

Section 4. The department shall prepare written material explaining the terms and conditions of other-personal-services employment and shall provide copies to each agency. Each agency shall provide each of its applicants for other-personal-services employment with a copy thereof, at the time of application.
Section 5. The department shall prepare an annual other-personal-services employment report and provide a copy thereof to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than September 15 of each year. The report shall include, but not be limited to, the following data for each agency for the preceding fiscal year:

(1) The number of individuals employed as other-personal-services personnel, by employment category, for each month of the fiscal year.

(2) The number of full-time equivalent positions.

(3) The total amount of compensation for other-personal-services personnel.

(4) For each individual employed as a temporary, common, casual, seasonal, or custodial other-personal-services employee since prior to the start of the fiscal year covered, the name, social security number, job description, employment commencement date, number of hours worked since employment commenced, and number of hours worked during the preceding fiscal year.

Section 6. This act shall take effect July 1, 1983.

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SENATE SUMMARY

Provides for the regulation of other-personal-services employment by the Department of Administration. Provides for the preparation of an annual report.

CODING Words in [ ] through type are deletions from existing law, words underlined are additions.
BILL ACTION REPORT

COMMITTEE ON Personnel, Retirement and Collective Bargaining

DATE April 6, 1983
TIME 2:00 - 5:00 p.m.
PLACE Rm. C, Senate Office Building

OTHER COMMITTEE REFERENCES.
(In order shown)
No more

THE VOTE WAS:

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FINAL ACTION:

 Favorably with amendments
 Favorably with Committee Substitute
 Unfavorably

OTHER:
 Temporarily Passed
 Reconsidered
 Not Considered

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TOTAL

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(Attach additional page if necessary)