

State officials, use of state aircraft

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The Honorable Charlie Crist
Senator, District 20
360 Central Avenue, Suite 1210
St. Petersburg, Florida 33701

Dear Senator Crist:

This is in response to your recent inquiry concerning the use of state aircraft by a Governor for exclusively political trips.

Section 287.17(1), Florida Statutes, requires that aircraft and motor vehicles owned, leased, or operated by the state "shall be available for official state business only" The statute sets forth criteria to be considered in determining appropriate uses of state vehicles and aircraft. These criteria include whether the use is necessary to carry out state official or employee job assignments; whether the use is for transporting an employee, state official, or other person authorized by an agency head for purposes of conducting official state business; whether the Department of Law Enforcement has been directed to provide security or transportation; or whether an emergency exists requiring the use of a motor vehicle or aircraft for the protection of life or property.[1] The term "official state business," however, excludes the use of state vehicles or aircraft for personal business or commuting purposes.[2]

While the statutes and related rules require that travel on state aircraft must be for "official state business," the Legislature has created exceptions to this requirement that have caused certain ambiguities in its interpretation and application.[3] Therefore, in answering the broad question of the appropriate use of state aircraft, Florida Statutes are not a model of clarity.

The Governor, as head of state government, is charged by our Florida Constitution with the responsibility "to procure and secure protection to life, liberty and property of the inhabitants of the state" This is an awesome, around-the-clock responsibility. The need to make decisions and take actions in overseeing the protection of our citizens, especially during hurricanes and other natural disasters, can arise without warning at any time and a Governor is obligated, through his or her sworn commitment to carry out the duties of the office, to minimize any potential impediments to instantaneous, decisive action.

In performing these critical executive duties throughout the state, the Governor is afforded the use of state vehicles, including automobiles and aircraft, to provide travel flexibility and instantaneous access in case of emergency. In addition, as head of the state, the Governor is subject to security constraints that may not be readily accommodated by commercial transportation. This concern is reflected in the provision of security and transportation for the Governor by the Florida Department of Law Enforcement.[4]

As the noted chronicler of state government, Dr. Allen Morris, observed in *The Florida Handbook*, "[t]he Governor is seldom off duty." [5] No one can predict when the Governor may be summoned to respond to an emergency or other pressing matter; he or she must be prepared to make the transition to chief executive instantaneously, whether conducting a meeting in the office, attending a football game or engaging in political activities.

Given the around-the-clock nature and seriousness of the duties of the Governor, the determination of when alternative commercial transportation would potentially impede the ability to respond to emergencies and other urgent matters is one that must be made by the Governor.

Clearly, however, to the extent that state aircraft are used for nonstate business, the taxpayers of Florida should not pay for their use by the Governor or any other authorized official. In such cases, the State must be fully reimbursed. [6]

Given the imprecision of the current statute with its mix of associated exceptions, the Legislature may wish to clarify its intent regarding the use of state aircraft. This office stands ready to assist you in any effort to make the legislative intent regarding the use of state aircraft unmistakably clear.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/t

[1] Section 287.17(2)(a)-(d), Fla. Stat.

[2] Section 287.17(3), Fla. Stat.

[3] See, e.g., s. 287.17(4), Fla. Stat. (person not otherwise authorized to use state aircraft may accompany certain state officials when such officials are traveling on state aircraft for official state business); s. 106.15, Fla. Stat. (no candidate for public office shall use any state-owned aircraft solely for the purpose of furthering his candidacy; however, a candidate may use such aircraft to conduct official state business and while on such trip perform such functions in furtherance of his candidacy); and Ch. 60B-4, Fla. Admin. C.

[4] See s. 281.20(1) and (7), Fla. Stat.; Rules 11L-1.001 and 11L-1.002, Fla. Admin. C.

[5] Morris, *The Florida Handbook 1995-1996* (25th ed. 1996).

[6] See s. 287.17(5), Fla. Stat. (person traveling on state aircraft on other than state business shall pay for any trip not exclusively for state business by paying prorated share of all fixed and variable expenses related to the ownership, operation, and use of such aircraft); s. 106.15(2), Fla. Stat. (candidate shall prorate expenses incurred and reimburse appropriate agency for that

portion of the trip not exclusively for state business). *And see* Rule 60B-4.004, Fla. Admin. C.