

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Oversight, Transparency &  
2 Administration Subcommittee

3 Representative Ingoglia offered the following:

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**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Paragraphs (j), (r), and (w) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.-

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(j) The appointed secretaries and the State Surgeon General, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; attorneys who serve as administrative law judges pursuant to s. 120.65; the executive directors, assistant executive directors, deputy executive

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17 | directors, and deputy assistant executive directors of all  
18 | departments; the directors of all divisions and those positions  
19 | determined by the department to have managerial responsibilities  
20 | comparable to such positions, which positions include, but are  
21 | not limited to, program directors, assistant program directors,  
22 | district administrators, deputy district administrators, the  
23 | Director of Central Operations Services of the Department of  
24 | Children and Families, the State Transportation Development  
25 | Administrator, the State Public Transportation and Modal  
26 | Administrator, district secretaries, district directors of  
27 | transportation development, transportation operations,  
28 | transportation support, and the managers of the offices of the  
29 | Department of Transportation specified in s. 20.23(3)(b). Unless  
30 | otherwise fixed by law, the department shall set the salary and  
31 | benefits of these positions and the positions of county health  
32 | department directors and county health department administrators  
33 | of the Department of Health in accordance with the rules of the  
34 | Senior Management Service.

35 | (r) All positions not otherwise exempt under this  
36 | subsection which require as a prerequisite to employment:  
37 | licensure as a physician pursuant to chapter 458, licensure as  
38 | an osteopathic physician pursuant to chapter 459, licensure as a  
39 | chiropractic physician pursuant to chapter 460, including those  
40 | positions which are occupied by employees who are exempted from  
41 | licensure pursuant to s. 409.352; licensure as an engineer

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42 | pursuant to chapter 471, which are supervisory positions; or for  
43 | 12 calendar months, which require as a prerequisite to  
44 | employment that the employee have received the degree of  
45 | Bachelor of Laws or Juris Doctor from a law school accredited by  
46 | the American Bar Association and thereafter membership in The  
47 | Florida Bar, ~~except for any attorney who serves as an~~  
48 | ~~administrative law judge pursuant to s. 120.65 or for hearings~~  
49 | ~~conducted pursuant to s. 120.57(1)(a)~~. Unless otherwise fixed by  
50 | law, the department shall set the salary and benefits for these  
51 | positions in accordance with the rules established for the  
52 | Selected Exempt Service.

53 | (w) Managerial employees, as defined in s. 447.203(4),  
54 | confidential employees, as defined in s. 447.203(5), and  
55 | supervisory employees who spend the majority of their time  
56 | communicating with, motivating, training, and evaluating  
57 | employees, and planning and directing employees' work, and who  
58 | have the authority to hire, transfer, suspend, lay off, recall,  
59 | promote, discharge, assign, reward, or discipline subordinate  
60 | employees or effectively recommend such action, including all  
61 | employees serving as supervisors, administrators, and directors.  
62 | Excluded are employees also designated as special risk or  
63 | special risk administrative support ~~and attorneys who serve as~~  
64 | ~~administrative law judges pursuant to s. 120.65 or for hearings~~  
65 | ~~conducted pursuant to s. 120.57(1)(a)~~. Additionally, registered  
66 | nurses licensed under chapter 464, dentists licensed under

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67 chapter 466, psychologists licensed under chapter 490 or chapter  
68 491, nutritionists or dietitians licensed under part X of  
69 chapter 468, pharmacists licensed under chapter 465,  
70 psychological specialists licensed under chapter 491, physical  
71 therapists licensed under chapter 486, and speech therapists  
72 licensed under part I of chapter 468 are excluded, unless  
73 otherwise collectively bargained.

74 Section 2. Subsections (1) through (4) of section 120.65,  
75 Florida Statutes, are amended to read:

76 120.65 Administrative law judges.—

77 (1) The Division of Administrative Hearings within the  
78 Department of Management Services shall be headed by the a  
79 director of the Division of Administrative Hearings. The  
80 director ~~who~~ shall be appointed by the Administration Commission  
81 and must be a full-time administrative law judge employed by the  
82 division and confirmed by the Senate. The director, who shall  
83 ~~also serve as the chief administrative law judge, and any deputy~~  
84 ~~chief administrative law judge must possess the same minimum~~  
85 ~~qualifications as the administrative law judges employed by the~~  
86 ~~division.~~ The Deputy Chief Judge of Compensation Claims must  
87 possess the minimum qualifications established in s. 440.45(2)  
88 and shall report to the director. The division is ~~shall be~~ a  
89 separate budget entity, and the director shall be its agency  
90 head for all purposes. The Department of Management Services  
91 shall provide administrative support and service to the division

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92 to the extent requested by the director. The division is shall  
93 not be subject to control, supervision, or direction by the  
94 Department of Management Services in any manner, including, but  
95 not limited to, personnel, purchasing, transactions involving  
96 real or personal property, and budgetary matters.

97 (2) The Governor shall appoint full-time administrative  
98 law judges to conduct hearings in accordance with this chapter.  
99 A person may not serve as an administrative law judge unless he  
100 or she has been a member of The Florida Bar in good standing for  
101 the previous 5 years. An administrative law judge may not engage  
102 in the private practice of law during his or her term of office.

103 (a)1. Except as provided in paragraph (b), the Governor  
104 shall appoint an administrative law judge from a list of three  
105 persons nominated by a statewide nominating commission. The  
106 statewide nominating commission shall be composed of three  
107 members, at least one of whom must be a minority person as  
108 defined in s. 288.703, appointed by the Governor; two members  
109 appointed by the Attorney General; two members appointed by the  
110 Chief Financial Officer; and two members appointed by the  
111 Commissioner of Agriculture.

112 2. Beginning July 1, 2017, the Governor and each member of  
113 the Cabinet shall appoint one member to serve a 2-year term and  
114 appoint the remaining members to serve 4-year terms. Thereafter,  
115 each member shall be appointed for a 4-year term. A vacancy

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116 occurring on the commission shall be filled by the original  
117 appointing authority for the unexpired balance of the term.

118 3. The meetings and determinations of the nominating  
119 commission as to the administrative law judges shall be open to  
120 the public.

121 (b) Each administrative law judge shall be appointed for a  
122 4-year term, but during his or her term of office may be removed  
123 by the Governor for cause. Before the expiration of a judge's  
124 term of office, the statewide nominating commission shall review  
125 the judge's conduct and determine whether the judge's  
126 performance is satisfactory. In determining whether a judge's  
127 performance is satisfactory, the commission shall consider the  
128 extent to which the judge has met the requirements of this  
129 chapter. The commission shall report its finding to the Governor  
130 no later than 6 months before the expiration of the judge's term  
131 of office. The Governor shall review the commission's report and  
132 may reappoint the administrative law judge for an additional 4-  
133 year term. If the Governor does not reappoint the judge, the  
134 Governor shall inform the commission. The judge shall remain in  
135 office until the Governor has appointed a successor judge in  
136 accordance with this subsection. If a vacancy occurs during a  
137 judge's unexpired term, the commission does not find the judge's  
138 performance satisfactory, or the Governor does not reappoint the  
139 judge, the Governor shall appoint a successor judge for a 4-year  
140 term in accordance with paragraph (a).

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141 (c) The Governor shall appoint each administrative law  
142 judge by June 30, 2018, for a term beginning on July 1, 2018.  
143 For the term beginning on July 1, 2018, administrative law  
144 judges shall be appointed in the following manner: 8 judges  
145 appointed to a 1-year term; 8 judges appointed to a 2-year term;  
146 8 judges appointed to a 3-year term; and 9 judges appointed to a  
147 4-year term. Thereafter, each term of office shall be 4 years.

148 (d) The Division of Administrative Hearings shall maintain  
149 33 administrative law judges as they exist on June 30, 2017.  
150 Each administrative law judge may continue to serve until June  
151 30, 2018. Each administrative law judge currently serving may be  
152 initially appointed under the process for reappointments in  
153 paragraph (b).

154 (3)-(2) The director has the right to appeal actions by the  
155 Executive Office of the Governor that affect amendments to the  
156 division's approved operating budget or any personnel actions  
157 pursuant to chapter 216 to the Administration Commission, which  
158 shall decide such issue by majority vote. The appropriations  
159 committees may advise the Administration Commission on the  
160 issue. If the President of the Senate and the Speaker of the  
161 House of Representatives object in writing to the effects of the  
162 appeal, the appeal may be affirmed by the affirmative vote of  
163 two-thirds of the commission members present.

164 (4)-(3) Each state agency as defined in chapter 216 and  
165 each political subdivision shall make its facilities available,

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166 at a time convenient to the provider, for use by the division in  
167 conducting proceedings pursuant to this chapter.

168 ~~(4) The division shall employ administrative law judges to~~  
169 ~~conduct hearings required by this chapter or other law. Any~~  
170 ~~person employed by the division as an administrative law judge~~  
171 ~~must have been a member of The Florida Bar in good standing for~~  
172 ~~the preceding 5 years.~~

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**T I T L E   A M E N D M E N T**

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Remove everything before the enacting clause and insert:

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An act relating to the Division of Administrative Hearings;

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amending s. 110.205, F.S.; revising positions at the division

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that are exempt from the Career Service System; amending s.

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120.65, F.S.; requiring the Administration Commission to select

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from full-time administrative law judges employed with the

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division in appointing a division director; removing the

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requirement that the division director is subject to Senate

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confirmation; deleting provisions regarding minimum

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qualifications of the division director and deputy chief

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administrative law judges; requiring the Governor to appoint

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administrative law judges; prohibiting an administrative law



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191 judge from engaging in the private practice of law during his or  
192 her term of office; requiring the Governor to appoint  
193 administrative law judges from nominees recommended by a  
194 statewide nominating commission unless otherwise provided;  
195 specifying the composition and term lengths of members of the  
196 commission; providing that meetings and determinations of the  
197 commission are open to the public; specifying term lengths of  
198 administrative law judges; prescribing procedures for the  
199 commission to review a judge's performance before the expiration  
200 of a term; requiring the Governor to take certain action  
201 regarding a judge after the commission's review; providing for  
202 initial appointments of administrative law judges and staggered  
203 terms; providing transitional provisions; providing an effective  
204 date.