

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2206

SPONSOR: Governmental Oversight & Productivity Committee and Senator Webster

SUBJECT: The Comptroller and the Department of Banking and Finance

DATE: April 20, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The committee substitute modifies a statutory provision relating to the Comptroller's place of residence, the location of the office of the Comptroller, and the hours of operation of the office. The Department of Banking and Finance is renamed the "Office of the Comptroller." Three divisions of the Department of Banking and Finance are transferred to the Department of Insurance. The Department of Insurance is renamed the "Department of Finance, Insurance, Banking, and Securities." Numerous changes to statutory references are made to reflect name changes, as well as the transfer of responsibilities. The committee substitute also requires the Governor, the Comptroller and the Treasurer to prepare a plan of implementation and a budget that must be submitted to the Senate President, the Speaker of the House, and the Minority Leaders of each house by July 1, 2000. The effective date of the bill, other than the implementing plan, is July 1, 2001.

This bill amends the following sections of the Florida Statutes: 17.02, 20.12, 20.13, 215.04, 215.05, 215.11, 215.25, 215.31, 215.32, 215.422, 494.001, 497.005, 516.01, 517.03, 517.061, 517.075, 517.1205, 517.131, 517.151, 520.02, 520.31, 520.61, 559.543, 559.55, 560.102, 560.103, 655.001, 655.005, 655.90, 655.949, 657.002, 657.253, 658.23, 658.2953, 716.03, 716.04, 716.05, 716.06, and 717.101.

## II. Present Situation:

Article IV of the State Constitution establishes the executive branch of state government and provides that the ". . . supreme executive power shall be vested in a governor." Nevertheless, the constitution also provides that the governor must share certain executive powers with constitutionally-created cabinet officers.

Article IV, s. 4 of the State Constitution, establishes the cabinet, which consists of six elected officials. The cabinet officers are the Secretary of State, the Attorney General, the Comptroller, the Treasurer, the Commissioner of Agriculture and the Commissioner of Education. The

constitution specifically assigns independent responsibilities to each cabinet officer. In addition, the constitution provides that the Governor and Cabinet sit as various boards or as the head of various agencies to administer certain state policies. This collegial form of state government is unique to Florida.

Each cabinet officer serves as the head of a department as provided in general law. In 1968, the constitution was revised to provide that the administration of the executive departments, unless otherwise provided in the constitution, is to be placed under the direct supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, or a cabinet member. The Legislature, in enacting the Governmental Reorganization Act of 1969, determined that each cabinet officer should serve as the head of a department which manages programs and duties for which that cabinet officer is constitutionally charged. These departments, however, administer many other programs and functions, in addition to administering programs directly relevant to the constitutional duties and functions charged to their respective agency head.

Article IV, s. 4(d) of the State Constitution, provides that the Comptroller serves as the chief fiscal officer of the state, and that he or she settles and approves accounts against the state. Section 20.12, F.S., provides for the creation of the Department of Banking and Finance. The designated head of the department pursuant to subsection (1) is the Comptroller. Subsection (2) establishes seven divisions within the department:

1. Division of Accounting and Auditing;<sup>1</sup>
2. Division of Administration;<sup>2</sup>
3. Division of Banking;<sup>3</sup>
4. Division of Finance;<sup>4</sup>
5. Division of Information Systems;<sup>5</sup>
6. Division of Securities and Investor Protection;<sup>6</sup> and the
7. Division of Financial Investigations.

The Comptroller ensures that all money paid into the State Treasury has been deposited correctly, that the expenditures of state agencies have been appropriated by the Legislature, and the state's general fiscal matters are in compliance with state laws and regulations. The Comptroller also serves as the head of the regulation of banking and securities in Florida.

The principal licensing, chartering, regulatory, and civil enforcement powers of the department are conferred by the following statutory provisions:

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<sup>1</sup>The division is made up of the Bureaus of Accounting, Auditing, State Payrolls, and Special Programs.

<sup>2</sup>The division is made up of the Bureau of Budget, Fiscal, and Office Services.

<sup>3</sup>The division is made up of the Director's Office, the Bureaus of International Banking, Financial Institutions-District I, Financial Institutions-District II, and Research, Planning and Staff Development.

<sup>4</sup>The division is made up of the Bureaus of Examinations, Financial Staff Programs, Funeral and Cemetery Services.

<sup>5</sup>The division is made up of the Bureaus of Programming Design, Production Control, Computer Services and Accounting Systems Design.

<sup>6</sup>The division is made up of the Bureaus of Examinations and Registrations.

Chapter 494, F.S. - Mortgage Brokerage and Mortgage Lending  
Chapter 497, F.S. - Florida Cemetery Act  
Chapter 516, F.S. - Florida Consumer Finance Act  
Chapter 517, F.S. - Florida Securities and Investor Protection Act  
Chapter 520, F.S. - Retail Installment Sales  
Chapter 559, F.S. - Trading Stamps, Florida Commercial Collection Practices  
Chapter 560, F.S. - Money Transmitters Code  
Chapters 655 through 665, F.S. - Financial Institutions Codes  
Chapter 716, F.S. - Escheats  
Chapter 717, F.S. - Florida Disposition of Unclaimed Property Act

Section 17.02, F.S., requires the Comptroller to reside at the seat of government in Florida and to hold office in a room in the capitol.

Constitutional Amendment No. 8 restructures the state cabinet by merging the office of the treasurer and comptroller into one chief financial officer. The changes made by this amendment are not effective until January 7, 2003, except that they govern for qualifying for and holding of primary elections in 2002.

### **III. Effect of Proposed Changes:**

The committee substitute modifies s. 17.02, F.S., by making the section gender neutral. Additionally, it conforms the section to similar provisions related to the Secretary of State and other members of the cabinet by specifying that the Comptroller is to perform the duties prescribed in the State Constitution and by requiring the office to be open Monday through Friday of every week from 8 a.m. to 5 p.m., except on legal holidays.

The committee substitute renames the Department of Banking and Finance the "Office of the Comptroller." The following divisions of that department remain in the Office of the Comptroller: (a) Division of Accounting and Auditing; (b) Division of Administration; (c) Division of Information Systems; and (d) Division of Financial Investigations. The committee substitute renames the Department of Insurance the "Department of Finance, Insurance, Banking and Securities." Three divisions that are currently in the department are transferred by a type two transfer to the renamed Department of Finance, Insurance, Banking, and Securities: (a) Division of Banking;<sup>7</sup> (b) Division of Securities and Investor Protection;<sup>8</sup> and (c) Division of Finance.<sup>9</sup>

The committee substitute makes numerous changes to statutory references to the Department of Banking and Finance to reflect the change in name to the "Office of the Comptroller" and the transfer of responsibilities. Additionally, numerous changes to statutory references to the Department of Insurance are made to reflect the name change to the Department of Finance, Insurance, Banking and Insurance, as well as the transfer of responsibilities.

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<sup>7</sup>The division is made up of the Director's Office, the Bureaus of International Banking, Financial Institutions-District I, Financial Institutions-District II, and Research, Planning and Staff Development.

<sup>8</sup>The division is made up of the Bureaus of Examinations and Registrations.

<sup>9</sup>The division is made up of the Bureaus of Examinations, Financial Staff Programs, Funeral and Cemetery Services.

The committee substitute requires the Governor, the Comptroller, and the Treasurer to develop a plan to implement the transfer authorized by the act. This plan, as well as a budget, is required to be submitted to the President and the Minority Leader of the Senate, and the Speaker and the Minority Leader of the House of Representatives by July 1, 2000. This portion of the committee substitute takes effect upon becoming law.

The committee substitute, except for the required implementation report, takes effect July 1, 2001.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Placement of the responsibilities for regulating financial, insurance, banking and securities industries in one department may benefit industry and the public if regulation is streamlined and coordinated as a result. Financial impacts are, however, indeterminate at this time.

##### **C. Government Sector Impact:**

Initially, there are likely to be costs related to the merger of these programs and functions. Some computer systems may need to be integrated and made compatible. Further, some programs and functions may overlap. There is, however, the potential for a reduction in the number of personnel required. Financial impacts are, however, indeterminate at this time.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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