

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 2208

SPONSOR: Governmental Oversight & Productivity Committee and Senator Webster

SUBJECT: Commissioner of Education

DATE: April 13, 1999 REVISED: _____

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

I. Summary:

The committee substitute requires the Commissioner of Education to reside at the seat of government of Florida. The committee substitute provides that the Commissioner of Education is the chief educational officer of the state for public elementary and secondary education. Additionally, it provides that waiver applications are to be made to the State Board of Education and that this board is to approve such waivers. The committee substitute also provides that the State Board of Community Colleges is to submit its budget directly to the Governor instead of through the Commissioner of Education.

This committee substitute amends the following sections of the Florida Statutes: 20.15, 228.056, 228.0565, 229.111, 229.512, 240.17 and 240.311.

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.

According to historian Dr. Daisy Parker Flory, the proponents of Florida’s statehood succeeded in 1838 in calling a constitutional convention at which “. . . the Jacksonians prevailed at the

convention and the first constitution of Florida produced the pattern for executive-legislative distribution of powers followed to the present day.” The 1838 charter included provisions that the offices of attorney general, secretary of state, treasurer, and comptroller were to be elected by a joint vote of the houses of the general assembly, rather than appointed by the governor. In 1865, another constitutional convention adopted a constitution that called for a secretary of state, an attorney general, a comptroller, and a treasurer to be elected by the qualified voters for 4-year terms to coincide with that of the governor. Although the 1865 Constitution was never ratified by the electorate because of the incoming reconstruction government following the Civil War, it established the principle for popular election of these officers.

The Constitution of 1868 was the first state constitution to refer to the aforementioned officials as “a cabinet of administrative officers” to be appointed by the Governor and confirmed by the Senate. According to Dr. Flory, this constitution was thought to be a tool of Republican dominance in the reconstruction era. This constitution was ratified and served until 1885, when Florida replaced its reconstruction constitution with the one that served until 1968. The 1885 Constitution reestablished the provision of popular election for the “administrative officers,” which then included a superintendent of public instruction and a commissioner of agriculture. The revised Constitution of 1968 states that “. . . there shall be a cabinet . . .” comprised of the six elected officials which currently comprise the cabinet.

As originally established in Art. IX, s. 17 of the State Constitution (1885), and continued in Art. XII, s. 9 of the State Constitution (1968), the Governor and Cabinet serve as the State Board of Education, which administers the state educational system. The State Board of Administration was also created by Art. IX, s. 16 of the State Constitution (1998), and continued by Art. XII, s. 9, of the State Constitution (1968), and is composed of the Governor, who serves as chairman, the Comptroller, and the Treasurer. The State Board of Administration is the fiduciary body of the Florida Retirement Trust Fund, and manages the Local Government Retirement Trust Fund, and manages the Local Government Surplus Funds Trust Fund, the Lottery, and other funds. Consequently, the SBA is responsible for managing and investing state assets valued over \$100 billion.

In addition, general law provides that the Governor and Cabinet sit as various other collegial bodies to administer certain programs. Such boards include the Board of Trustees of the Internal Improvement Trust Fund, which purchases and holds title to the lands of the state; the Administration Commission, which reviews and approves numerous actions and policies of the executive branch; and the Board of Executive Clemency, which review petitions for clemency from inmates of the state prison system and others. The respective policies of the boards, commission, and other entities comprised of the Governor and cabinet are determined in public meetings by official actions.

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.

The office of the Commissioner of Education replaced the office of the Superintendent of Public Instruction in the 1968 revision of the state constitution. That initial office had been established in 1885. Article IV, s. 4(g) of the State Constitution, provides that:

The commissioner of education shall supervise the public education system in the manner prescribed by law.

Section 20.15, F.S., establishes the Department of Education and designates the head of the department as the Commissioner of Education. Section 20.15(1), F.S., however notes that:

In accordance with s. 2, Art. IX of the State Constitution, the State Board of Education is the chief policy making body of public education in the state as specified in chapter 229. The Governor is chair of the board, and the Commissioner of Education is the secretary and executive officer and in the absence of the Governor shall serve as the chair.

The Commissioner of Education exercises general supervision over the activities and divisions within the Department of Education. Five divisions are created within the Department of Education:

1. Division of Community Colleges (Board of Community Colleges heads this division);
2. Division of Public Schools and Community Education;
3. Division of Universities (Board of Regents heads this division);
4. Division of Workforce Development; and the
5. Division of Human Resource Development.

Article IX, s.1 of the State Constitution, as amended in 1998, reads:

Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

The Legislature is responsible for designing the system of schools, colleges, and universities that make up the state's education system. The Florida School Code consists of chapters 228 through 246, F.S. General provisions for education are established in ch. 228, F.S., and the functions, powers, and duties of the State Board of Education, the Commissioner of Education, and the Department of Education are established in ch. 229, F.S.

Constitutional Amendment No. 8 restructures the state cabinet by merging the office of the treasurer and comptroller into one chief financial officer. Additionally, the amendment reduces the size of the cabinet by eliminating two positions, the secretary of state and the commissioner of education. The new cabinet consists of a chief financial officer, the attorney general, and the commissioner of agriculture. 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.

Under the amendment, the state board of education will no longer be the Governor and Cabinet, but instead will be a seven-member board that is appointed by the Governor and confirmed by the Senate. This appointed board will appoint the commissioner of education.

III. Effect of Proposed Changes:

The committee substitute requires the Commissioner of Education to reside at the seat of government of Florida. This language is contained in office requirements of other cabinet officers. Additionally, the committee substitute provides that charter schools and deregulated public schools are to apply to the State Board of Education, instead of the Commissioner of Education, for waivers from the Florida School Code. Additionally, the committee substitute provides that the State Board of Education, instead of the Commissioner of Education, approves waivers from the Florida School Code.

The committee substitute provides that the State Board of Education, instead of the Commissioner of Education, may accept gifts on behalf of the state system of public education. The committee substitute provides that the Commissioner of Education is the chief educational officer of the state for elementary and secondary education. The committee substitute modifies s. 240.311(5)(b), F.S., to provide that the Board of Community Colleges submits its budget to the Governor, instead of through the Commissioner of Education. Additionally, s. 240.417, F.S., is amended to provide that the State Board of Education, in coordination with the Division of Bond Finance, of the State Board of Administration, may determine that certain tuition and registration fees are no longer required as security for revenue bonds. Currently, the Division and the Commissioner of Education make this determination.

The committee substitute has an effective date of July 1, 2000.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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