

By Senator Sanderson

31-1146A-01

1 A bill to be entitled
2 An act relating to governmental reorganization;
3 amending s. 20.04, F.S.; providing an exception
4 to departmental structure requirements;
5 creating s. 20.121, F.S.; creating the
6 Department of State Finance; providing duties
7 of the Chief Financial Officer as head of the
8 department; creating s. 20.131, F.S.; creating
9 the Department of Insurance and Financial
10 Services; providing for an executive director;
11 providing for departmental structure; creating
12 the offices of Commissioner of Insurance,
13 Commissioner of Financial Institutions, and
14 Commissioner of Securities; providing for
15 appointment and specifying qualifications for
16 each commissioner; providing jurisdiction of
17 the commissioners' offices; providing for
18 exercise of executive authority; prescribing
19 rulemaking authority; transferring certain
20 powers, duties, functions, and assets of the
21 Comptroller, Treasurer, Department of Banking
22 and Finance, and Department of Insurance to the
23 Office of Chief Financial Officer; transferring
24 certain powers, duties, functions, and assets
25 of the Department of Banking and Finance and
26 Department of Insurance to the Department of
27 Insurance and Financial Services; specifying
28 those rules of the Department of Banking and
29 Finance and the Department of Insurance that
30 become rules of the Department of Insurance and
31 Financial Services and those that become rules

1 of the Office of Chief Financial Officer;
2 providing for preservation of validity of
3 judicial and administrative actions; providing
4 for substitution of parties; creating the
5 Office of Transition Management; specifying its
6 powers and duties; providing for
7 appropriations; requiring reports to the
8 Governor and Legislature; providing for
9 conforming legislation; repealing ss. 20.12,
10 20.13, F.S., relating to the Department of
11 Banking and Finance and the Department of
12 Insurance; providing effective dates.

13

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

15

16 Section 1. Effective January 7, 2003, subsection (3)
17 of section 20.04, Florida Statutes, is amended to read:

18 20.04 Structure of executive branch.--The executive
19 branch of state government is structured as follows:

20 (3) For their internal structure, all departments,
21 except for the Department of Insurance and Financial Services
22 ~~Banking and Finance, the Department of State Finance,~~ the
23 Department of Children and Family Services, the Department of
24 Corrections, the Department of Management Services, the
25 Department of Revenue, and the Department of Transportation,
26 must adhere to the following standard terms:

27 (a) The principal unit of the department is the
28 "division." Each division is headed by a "director."

29 (b) The principal unit of the division is the
30 "bureau." Each bureau is headed by a "chief."

31

1 (c) The principal unit of the bureau is the "section."
2 Each section is headed by an "administrator."

3 (d) If further subdivision is necessary, sections may
4 be divided into "subsections," which are headed by
5 "supervisors."

6 Section 2. Sections 20.121 and 20.131, Florida
7 Statutes, are created to read:

8 20.121 Department of State Finance.--Effective January
9 7, 2003, there is created the Department of State Finance. The
10 head of the department is the Chief Financial Officer.

11 Pursuant to s. 4, Art. IV of the State Constitution, the
12 duties of the Chief Financial Officer are to serve as the
13 chief fiscal officer of the state, to settle and approve
14 accounts against the state, and to keep all state funds and
15 securities. The Chief Financial Officer is also the
16 administrator of the Government Employees Deferred
17 Compensation Plan and is responsible for carrying out laws
18 relating to unclaimed property and security for public
19 deposits.

20 20.131 Department of Insurance and Financial
21 Services.--Effective January 7, 2003, there is created the
22 Department of Insurance and Financial Services. The head of
23 the Department of Insurance and Financial Services is the
24 Governor and Cabinet.

25 (1) EXECUTIVE DIRECTOR.--The Executive Director of the
26 Department of Insurance and Financial Services is the chief
27 administrator of the department and shall be appointed by the
28 Governor and Cabinet, subject to confirmation by the Senate.
29 The executive director serves at the pleasure of the Governor
30 and Cabinet. The functions of the executive director are
31 limited to personnel, administrative, and budgetary matters,

1 including administrative coordination of issues that affect
2 areas under the offices of more than one commissioner and
3 coordination of legislative activities.

4 (2) DEPARTMENTAL STRUCTURE.--The Governor and Cabinet,
5 as department head, shall adopt rules establishing the
6 organizational structure of the department. It is the intent
7 of the Legislature to provide the Governor and Cabinet with
8 the flexibility to organize the department in any manner they
9 determine appropriate to promote both efficiency and
10 accountability, subject to the following requirements:

11 (a) The major structural unit of the department is the
12 "office." Each office is headed by a "commissioner." The
13 offices are established as follows:

14 1. Office of the Commissioner of Insurance.--The
15 Office of the Commissioner of Insurance is responsible for all
16 activities relating to the regulation of insurance and
17 insurance fraud. The head of the office is the Commissioner
18 of Insurance, who is also the State Fire Marshal.

19 2. Office of the Commissioner of Financial
20 Institutions.--The Office of the Commissioner of Financial
21 Institutions is responsible for all activities relating to the
22 regulation of banks, credit unions, other financial
23 institutions, and finance companies. The head of the office is
24 the Commissioner of Financial Institutions. The office
25 includes a Division of Financial Investigations, which is
26 headed by a director who is appointed by and serves at the
27 pleasure of the commissioner.

28 3. Office of the Commissioner of Securities.--The
29 Office of the Commissioner of Securities is responsible for
30 all activities relating to the regulation of securities. The
31 head of the office is the Commissioner of Securities.

1 (b)1. For purposes of chapter 120, each commissioner
2 is the agency head for all units within that commissioner's
3 jurisdiction, as provided in paragraph (a) and rules adopted
4 pursuant to this subsection, except as provided in
5 subparagraph 2. Each commissioner shall be responsible for,
6 and take final agency action related to, the implementation
7 and enforcement of all statutes and the adoption,
8 implementation, and enforcement of all rules within the
9 regulatory authority delegated to that commissioner's office.

10 2. The department may initiate rulemaking by
11 publishing a notice of intended action. However, before a
12 notice of intended action is published, the department must
13 submit the proposed notice, including the proposed rule text,
14 to the Governor and each member of the Cabinet. Upon the
15 written request of the Governor or any member of the Cabinet,
16 the department shall submit the proposed rules for action by
17 the Governor and Cabinet at the next appropriate Cabinet
18 meeting. If, after being given 10 working days to review the
19 department's proposed notice of intended action and rule text,
20 neither the Governor nor any Cabinet member notifies the
21 department of his or her objection to such publication, the
22 department may proceed to initiate rulemaking under s.
23 120.54(3)(a)1. The power to determine whether proposed rules
24 should be approved for final adoption is reserved to the
25 Governor and Cabinet acting as head of the department.

26 (3) APPOINTMENT AND QUALIFICATIONS OF
27 COMMISSIONERS.--Each commissioner shall be appointed by, and
28 shall serve at the pleasure of, the executive director.
29 Appointment of a commissioner is subject to the approval of
30 the Governor and Cabinet. The minimum qualifications of the
31 commissioners are as follows:

1 (a) Prior to appointment as commissioner, the
2 Commissioner of Insurance must have had, within the previous
3 10 years, at least 5 years of experience as a senior officer
4 of an insurer as defined in s. 624.03, as a senior officer of
5 an insurance agency as defined in s. 626.094, or as a senior
6 examiner or other senior employee of a state or federal agency
7 having regulatory responsibility over insurers or insurance
8 agencies.

9 (b) Prior to appointment as commissioner, the
10 Commissioner of Financial Institutions must have had, within
11 the previous 10 years, at least 5 years of experience as an
12 executive officer or director of a financial institution as
13 defined in s. 655.005(1) or of a finance company or as a
14 senior examiner or other senior employee of a state or federal
15 agency having regulatory responsibility over financial
16 institutions or finance companies.

17 (c) Prior to appointment as commissioner, the
18 Commissioner of Securities must have had, within the previous
19 10 years, at least 5 years of experience as a senior officer
20 of a securities company or as a senior examiner or other
21 senior employee of a state or federal agency having regulatory
22 responsibility over securities.

23 Section 3. Transfers.--

24 (1) TRANSFERS TO THE OFFICE OF CHIEF FINANCIAL
25 OFFICER.--

26 (a) All powers, duties, functions, rules, records,
27 personnel, property, and unexpended balances of
28 appropriations, allocations, and other funds of the Office of
29 the Comptroller;

30 (b) All powers, duties, functions, rules, records,
31 personnel, property, and unexpended balances of

1 appropriations, allocations, and other funds of the Department
2 of Banking and Finance that relate to the constitutional
3 functions of the Comptroller or to duties relating to
4 unclaimed property;

5 (c) All powers, duties, functions, rules, records,
6 personnel, property, and unexpended balances of
7 appropriations, allocations, and other funds of the Office of
8 the Treasurer, including the Government Employees Deferred
9 Compensation Plan and duties relating to security for public
10 deposits; and

11 (d) All powers, duties, functions, rules, records,
12 personnel, property, and unexpended balances of
13 appropriations, allocations, and other funds of the Department
14 of Insurance that relate to the constitutional functions of
15 the Treasurer

16
17 are transferred by a type two transfer, as defined in section
18 20.06(2), Florida Statutes, to the Office of Chief Financial
19 Officer.

20 (2) TRANSFERS TO THE DEPARTMENT OF INSURANCE AND
21 FINANCIAL SERVICES.--

22 (a) All powers, duties, functions, rules, records,
23 personnel, property, and unexpended balances of
24 appropriations, allocations, and other funds of the Department
25 of Banking and Finance not otherwise transferred by this act;
26 and

27 (b) All powers, duties, functions, rules, records,
28 personnel, property, and unexpended balances of
29 appropriations, allocations, and other funds of the Department
30 of Insurance not otherwise transferred by this act
31

1 are transferred by a type two transfer, as defined in section
2 20.06(2), Florida Statutes, to the Department of Insurance and
3 Financial Services.

4 (3) EFFECTIVE DATE.--This section shall take effect
5 January 7, 2003.

6 Section 4. Effective January 7, 2003, the
7 administrative rules of the Department of Banking and Finance
8 and of the Department of Insurance that were in effect
9 immediately prior to January 7, 2003, shall become rules of
10 the Department of Insurance and Financial Services and shall
11 remain in effect until specifically changed in the manner
12 provided by law. However, any such rules that relate to the
13 constitutional functions of the Comptroller or the Treasurer
14 shall instead become rules of the Office of Chief Financial
15 Officer and shall remain in effect until amended or repealed
16 in the manner provided by law.

17 Section 5. This act shall not affect the validity of
18 any judicial or administrative action involving the Department
19 of Banking and Finance or the Department of Insurance pending
20 on January 7, 2003, and the Department of Insurance and
21 Financial Services shall be substituted as a party in interest
22 in any such action. However, if the action involves the
23 constitutional functions of the Comptroller or Treasurer, the
24 Office of Chief Financial Officer shall instead be substituted
25 as a party in interest.

26 Section 6. Transitional provisions.--

27 (1) The office of Executive Director of the Department
28 of Insurance and Financial Services is created effective
29 August 1, 2001. The Governor and Cabinet shall, no later than
30 August 1, 2001, appoint a person pursuant to section
31 20.131(1), Florida Statutes, to serve as the Executive

1 Director of the department. Until the creation of the
2 department takes effect on January 7, 2003, the Executive
3 Director shall serve as the head of the Office of Transition
4 Management under subsection (2).

5 (2)(a) There is created the Office of Transition
6 Management. The office shall function independently, but shall
7 for administrative purposes be treated as an office of the
8 Executive Office of the Governor.

9 (b) The head of the office is the Executive Director
10 appointed pursuant to subsection (1).

11 (c) The office shall manage the transition to the new
12 Department of Insurance and Financial Services and the new
13 Office of Chief Financial Officer. The management duties of
14 the office include, but are not limited to:

15 1. Assuring that the offices of Commissioner of
16 Insurance, Commissioner of Financial Institutions,
17 Commissioner of Securities, and all senior management
18 positions are occupied by qualified persons no later than
19 January 7, 2003.

20 2. Providing recommendations to the Legislature no
21 later than January 1, 2002, as to statutory changes that are
22 necessary or desirable to implement a successful transition.

23 3. Providing a report that specifies,
24 position-by-position, those positions that are subject to
25 transfer to the Office of Chief Financial Officer under this
26 act. Except as revised by the General Appropriations Act or
27 other legislation, the report under this subparagraph shall be
28 used to determine which employees of the Department of Banking
29 and Finance or the Department of Insurance will become
30 employees of the Office of Chief Financial Officer on January
31 7, 2003. The office shall provide the report to the Governor,

1 the President of the Senate, the Speaker of the House of
2 Representatives, and the chair of each fiscal committee or
3 council of the Senate or the House of Representatives.

4 4. Taking action in advance on personnel, purchasing,
5 and administrative matters.

6 5. Submitting to the Governor and Cabinet a proposed
7 organizational plan for the Department of Insurance and
8 Financial Services and revisions thereto, which plans and
9 revisions the Governor and Cabinet may adopt by rule.

10 6. Providing status reports and other information as
11 requested by members or staff of the Legislature.

12 (d) The Department of Banking and Finance, the
13 Department of Insurance, the Office of the Comptroller, and
14 the Office of the Treasurer shall fully cooperate with the
15 Office of Transition Management and shall promptly provide the
16 office with any requested information.

17 (e)1. Funding for the Office of Transition Management
18 shall be as provided in the General Appropriations Act.

19 2. As provided in section 216.351, Florida Statutes,
20 notwithstanding any provision of law to the contrary, the
21 Legislature may appropriate moneys from the Financial
22 Institutions Trust Fund of the Department of Banking and
23 Finance and the Insurance Commissioner's Regulatory Trust Fund
24 of the Department of Insurance to fund the activities of the
25 Office of Transition Management.

26 Section 7. No later than January 31, 2002, the
27 Division of Statutory Revision of the Office of Legislative
28 Services, in consultation with the appropriate substantive
29 committee staffs of the Senate and the House of
30 Representatives, shall submit to the President of the Senate
31 and the Speaker of the House of Representatives proposed

1 substantive legislation to conform the Florida Statutes to the
2 provisions of this act. The proposed legislation shall include
3 provisions:

4 (1) Changing the term "Comptroller" or "Treasurer" to
5 "Chief Financial Officer" with respect to functions of the
6 Chief Financial Officer.

7 (2) Changing references to the Department of Banking
8 and Finance or the Department of Insurance to the Department
9 of Insurance and Financial Services, except with respect to
10 functions of the Chief Financial Officer.

11 (3) Otherwise conforming the Florida Statutes to the
12 abolition of the offices of Comptroller and Treasurer, the
13 creation of the Office of Chief Financial Officer, the
14 abolition of the Department of Banking and Finance and the
15 Department of Insurance, the creation of the Department of
16 Insurance and Financial Services, and the creation of the
17 offices of Commissioner of Insurance, Commissioner of
18 Financial Institutions, and Commissioner of Securities within
19 the Department of Insurance and Financial Services.

20 Section 8. Effective January 7, 2003, sections 20.12
21 and 20.13, Florida Statutes, are repealed.

22 Section 9. Except as otherwise expressly provided in
23 this act, this act shall take effect upon becoming a law.

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26 SENATE SUMMARY

27 Pursuant to constitutional mandate, creates the Office of
28 Chief Financial Officer and the Department of Insurance
29 and Financial Services; abolishes the Department of
30 Banking and Finance and the Department of Insurance; and
31 provides for the assumption of the powers, duties,
functions, and assets of the latter by the former. (See
bill for details.)