

By the Council for Competitive Commerce and Committee on State Administration and Representatives Waters, Flanagan, Brummer, Kosmas and Greenstein

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 deleting reference to the Department of Banking
6 and Finance and substituting the Department of
7 Insurance and Financial Services; creating s.
8 20.121, F.S.; creating the Office of Chief
9 Financial Officer; providing duties; creating
10 s. 20.131, F.S.; creating the Department of
11 Insurance and Financial Services; providing for
12 an executive director; providing for
13 departmental structure; creating the Offices of
14 Commissioner of Insurance, Commissioner of
15 Financial Services, and Commissioner of
16 Securities; providing for appointment and
17 specifying qualifications for each
18 commissioner; providing jurisdiction for each
19 commissioner's office; transferring certain
20 powers, duties, functions, rules, records,
21 personnel, property, and unexpended balances of
22 appropriations, allocations, and other funds to
23 the Office of Chief Financial Officer and the
24 Department of Insurance and Financial Services;
25 specifying that rules of the Department of
26 Banking and Finance and the Department of
27 Insurance become rules of the Department of
28 Insurance and Financial Services; specifying
29 that such rules become rules of the Office of
30 Chief Financial Officer under certain
31 circumstances; providing for preservation of

1 validity of judicial or administrative actions
2 involving such departments; providing for
3 substitution of certain parties in interest in
4 such actions; creating the Office of Transition
5 Management; specifying powers and duties
6 thereof; requiring reports to the Governor and
7 the Legislature; directing the Division of
8 Statutory Revision to prepare proposed
9 substantive legislation by a certain time for
10 certain purposes; repealing ss. 20.12 and
11 20.13, F.S., relating to the Department of
12 Banking and Finance and the Department of
13 Insurance, respectively; providing an
14 appropriation; providing effective dates.

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

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

20 20.04 Structure of executive branch.--The executive
21 branch of state government is structured as follows:

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

29 (a) The principal unit of the department is the
30 "division." Each division is headed by a "director."
31

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

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

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

8 Section 2. Section 20.121, Florida Statutes, is
9 created to read:

10 20.121 Office of Chief Financial Officer.--Effective
11 January 7, 2003, there is created the Office of Chief
12 Financial Officer. The head of the office is the Chief
13 Financial Officer. Pursuant to s. 4, Art. IV of the State
14 Constitution, the duties of the Chief Financial Officer are to
15 serve as the chief fiscal officer of the state, to settle and
16 approve accounts against the state, and to keep all state
17 funds and securities. The Chief Financial Officer is also the
18 administrator of the Government Employees Deferred
19 Compensation Plan and is responsible for carrying out laws
20 relating to unclaimed property and security for public
21 deposits.

22 Section 3. Section 20.131, Florida Statutes, is
23 created to read:

24 20.131 Department of Insurance and Financial
25 Services.--Effective January 7, 2003, there is created the
26 Department of Insurance and Financial Services. The Governor
27 and Cabinet shall serve as head of the department.

28 (1) EXECUTIVE DIRECTOR.--The executive director of the
29 Department of Insurance and Financial Services is the chief
30 administrator of the department and shall be appointed by the
31 Governor and Cabinet, subject to confirmation by the Senate.

1 The executive director serves at the pleasure of the Governor
2 and Cabinet. The functions of the executive director are
3 limited to personnel, administrative, and budgetary matters,
4 including administrative coordination of issues that affect
5 areas under the Offices of the Commissioner of Insurance, the
6 Commissioner of Financial Services, and the Commissioner of
7 Securities, and coordination of legislative activities.

8 (2) DEPARTMENTAL STRUCTURE.--The Governor and Cabinet,
9 as head of the Department of Insurance and Financial Services,
10 shall adopt rules establishing the organizational structure of
11 the department. It is the intent of the Legislature to provide
12 the Governor and Cabinet with the flexibility to organize the
13 department in any manner they determine appropriate to promote
14 both efficiency and accountability, subject to the following
15 requirements:

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

19 1. Office of the Commissioner of Insurance.--The
20 Office of the Commissioner of Insurance is responsible for all
21 activities of the department relating to the regulation of
22 insurance, insurance fraud, and state government risk
23 management. The head of the office is the Commissioner of
24 Insurance, who is also the State Fire Marshal.

25 2. Office of the Commissioner of Financial
26 Services.--The Office of the Commissioner of Financial
27 Services is responsible for all activities of the department
28 relating to the regulation of banks, credit unions, other
29 financial institutions, finance companies, and funeral and
30 cemetery services. The head of the office is the Commissioner
31 of Financial Services. The office includes the Division of

1 Financial Investigations, which is headed by a director who is
2 appointed by and serves at the pleasure of the commissioner.
3 The division shall function as a criminal justice agency for
4 purposes of ss. 943.045-943.08 and shall have a separate
5 budget.

6 3. Office of the Commissioner of Securities.--The
7 Office of the Commissioner of Securities is responsible for
8 all activities of the department relating to the regulation of
9 securities. The head of the office is the Commissioner of
10 Securities.

11 (b) For purposes of final orders under chapter 120,
12 each commissioner is the agency head for all areas within that
13 commissioner's jurisdiction and shall be responsible for, and
14 take final agency action related to, orders within the
15 regulatory authority delegated to that commissioner's office.

16 (3) APPOINTMENT AND QUALIFICATIONS OF
17 COMMISSIONERS.--Each commissioner shall be appointed by, and
18 shall serve at the pleasure of, the executive director.
19 Appointment of a commissioner is subject to the approval of
20 the Governor and Cabinet. The minimum qualifications of the
21 commissioners are as follows:

22 (a) Prior to appointment as commissioner, the
23 Commissioner of Insurance must have had, within the previous
24 10 years, at least 5 years of responsible private sector
25 experience working full-time in an area under the regulatory
26 jurisdiction of the Office of the Commissioner of Insurance or
27 at least 5 years of experience as a senior examiner or other
28 senior employee of a state or federal agency having regulatory
29 responsibility over insurers or insurance agencies.

30 (b) Prior to appointment as commissioner, the
31 Commissioner of Financial Services must have had, within the

1 previous 10 years, at least 5 years of responsible private
2 sector experience working full-time in an area under the
3 regulatory jurisdiction of the Office of the Commissioner of
4 Financial Services or at least 5 years of experience as a
5 senior examiner or other senior employee of a state or federal
6 agency having regulatory responsibility over financial
7 institutions or finance companies.

8 (c) Prior to appointment as commissioner, the
9 Commissioner of Securities must have had, within the previous
10 10 years, at least 5 years of responsible private sector
11 experience working full-time in an area under the regulatory
12 jurisdiction of the Office of the Commissioner of Securities
13 or at least 5 years of experience as a senior examiner or
14 other senior employee of a state or federal agency having
15 regulatory responsibility over securities companies.

16 Section 4. Transfers.--

17 (1) TRANSFERS TO THE OFFICE OF CHIEF FINANCIAL
18 OFFICER.--

19 (a) All powers, duties, functions, rules, records,
20 personnel, property, and unexpended balances of
21 appropriations, allocations, and other funds of the Office of
22 the Comptroller;

23 (b) All powers, duties, functions, rules, records,
24 personnel, property, and unexpended balances of
25 appropriations, allocations, and other funds of the Department
26 of Banking and Finance that relate to the constitutional
27 functions of the Comptroller or to duties relating to
28 unclaimed property;

29 (c) All powers, duties, functions, rules, records,
30 personnel, property, and unexpended balances of
31 appropriations, allocations, and other funds of the Office of

1 the Treasurer, including the Government Employees Deferred
2 Compensation Plan and duties relating to security for public
3 deposits; and
4 (d) All powers, duties, functions, rules, records,
5 personnel, property, and unexpended balances of
6 appropriations, allocations, and other funds of the Department
7 of Insurance that relate to the constitutional functions of
8 the Treasurer
9
10 are transferred by a type two transfer, as defined in s.
11 20.06(2), Florida Statutes, to the Office of Chief Financial
12 Officer.
13 (2) TRANSFERS TO THE DEPARTMENT OF INSURANCE AND
14 FINANCIAL SERVICES.--
15 (a) All powers, duties, functions, rules, records,
16 personnel, property, and unexpended balances of
17 appropriations, allocations, and other funds of the Department
18 of Banking and Finance not otherwise transferred by this act;
19 and
20 (b) All powers, duties, functions, rules, records,
21 personnel, property, and unexpended balances of
22 appropriations, allocations, and other funds of the Department
23 of Insurance not otherwise transferred by this act
24
25 are transferred by a type two transfer, as defined in s.
26 20.06(2), Florida Statutes, to the Department of Insurance and
27 Financial Services.
28 (3) This section shall take effect January 7, 2003.
29 Section 5. Effective January 7, 2003, the rules of the
30 Department of Banking and Finance and of the Department of
31 Insurance that were in effect on January 6, 2003, shall become

1 rules of the Department of Insurance and Financial Services
2 and shall remain in effect until specifically amended or
3 repealed in the manner provided by law. However, any such
4 rules that relate to the constitutional functions of the
5 Comptroller or the Treasurer shall instead become rules of the
6 Office of Chief Financial Officer and shall remain in effect
7 until amended or repealed in the manner provided by law.

8 Section 6. This act shall not affect the validity of
9 any judicial or administrative action involving the Department
10 of Banking and Finance or the Department of Insurance pending
11 on January 7, 2003, and the Department of Insurance and
12 Financial Services shall be substituted as a party in interest
13 in any such action. However, if the action involves the
14 constitutional functions of the Comptroller or Treasurer, the
15 Office of Chief Financial Officer shall instead be substituted
16 as a party in interest.

17 Section 7. Transitional provisions.--

18 (1) The office of executive director of the Department
19 of Insurance and Financial Services is created effective
20 August 1, 2001. By no later than August 1, 2001, the Governor
21 and Cabinet shall appoint a person, subject to confirmation by
22 the Senate, who will serve as the executive director of the
23 department. However, until the creation of the department
24 takes effect on January 7, 2003, that person shall serve as
25 the head of the Office of Transition Management under
26 subsection (2).

27 (2)(a) There is created the Office of Transition
28 Management. The office shall function independently but shall
29 for administrative purposes be treated as an office of the
30 Executive Office of the Governor.

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1 (b) The head of the office is the executive director
2 appointed pursuant to subsection (1), who shall serve at the
3 pleasure of the Governor and Cabinet.

4 (c) The office shall manage the transition to the new
5 Department of Insurance and Financial Services and the new
6 Office of Chief Financial Officer. The management duties of
7 the office shall include, but not be limited to:

8 1. Assuring that, by no later than January 7, 2003,
9 all positions within the Office of the Commissioner of
10 Insurance, the Office of the Commissioner of Financial
11 Services, and the Office of the Commissioner of Securities,
12 including all senior management positions, are occupied by
13 qualified persons.

14 2. Providing written recommendations to the
15 Legislature by no later than January 1, 2002, as to statutory
16 changes that are necessary or desirable to implement a
17 successful transition. These recommendations shall include,
18 but not be limited to, detailed legislative recommendations
19 regarding:

20 a. The need for, and structure of, investigative
21 services by the Office of Chief Financial Officer, including
22 confidentiality requirements.

23 b. Rulemaking procedures for the Department of
24 Insurance and Financial Services, including proposals to
25 streamline the rulemaking process and proposals regarding
26 adoption of emergency rules.

27 3. Providing a written report that specifies, on a
28 position-by-position basis, those positions that are subject
29 to transfer to the Office of Chief Financial Officer under
30 this act. Except as revised by the General Appropriations Act
31 or other legislation, the report under this subparagraph shall

1 be used to determine which positions within the Department of
2 Banking and Finance or the Department of Insurance will become
3 positions within the Office of Chief Financial Officer, and
4 which positions will become positions within the Department of
5 Insurance and Financial Services, on January 7, 2003. The
6 office shall provide the report to the Governor, the President
7 of the Senate, the Speaker of the House of Representatives,
8 and the chair of each fiscal committee or council of the
9 Senate and the House of Representatives.

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

12 5. Submitting to the Governor and Cabinet a proposed
13 organizational plan for the Department of Insurance and
14 Financial Services, which plan the Governor and Cabinet may
15 adopt by rule.

16 6. Providing monthly written status reports to the
17 President of the Senate and the Speaker of the House of
18 Representatives.

19 7. Providing such other information as may be
20 requested by members or staff of the Legislature.

21 (d) The Department of Banking and Finance, the
22 Department of Insurance, the Office of the Comptroller, and
23 the Office of the Treasurer shall fully cooperate with the
24 Office of Transition Management and shall promptly provide the
25 office with any requested information.

26 (e) Funding for the Office of Transition Management
27 shall be as provided in the General Appropriations Act.

28 Section 8. No later than January 31, 2002, the
29 Division of Statutory Revision of the Office of Legislative
30 Services, in consultation with the appropriate substantive
31 committee staffs of the Senate and the House of

1 Representatives, shall submit to the President of the Senate
2 and the Speaker of the House of Representatives proposed
3 substantive legislation to conform the Florida Statutes to the
4 provisions of this act. The proposed legislation shall include
5 provisions:

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

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

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

22 Section 9. Effective January 7, 2003, sections 20.12
23 and 20.13, Florida Statutes, are repealed.

24 Section 10. There is hereby appropriated \$227,984 from
25 the Grants and Donations Trust Fund in the Executive Office of
26 the Governor and two full-time equivalent (FTE) positions for
27 the purpose of funding the Office of Transition Management
28 within the Executive Office of the Governor. This shall be
29 funded by transfers of \$113,992 from the Administrative Trust
30 Fund of the Department of Banking and Finance and \$113,992
31 from the Insurance Commissioner's Regulatory Trust Fund of the

1 Department of Insurance to the Grants and Donations Trust Fund
2 in the Executive Office of the Governor. If funding for the
3 Office of Transition Management is provided in the 2001-2002
4 General Appropriations Act, this appropriation shall not take
5 effect.

6 Section 11. Except as otherwise provided herein, this
7 act shall take effect upon becoming a law.

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