

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1627 Cabinet Reorganization - Voting and Titles
SPONSOR(S): Rivera and others
TIED BILLS: none **IDEN./SIM. BILLS:** SB 1488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>5 Y, 0 N</u>	<u>Bond</u>	<u>Everhart</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Revision 8 to the Florida Constitution, effective as of January 7, 2003, reduced the Cabinet from 6 to 3 elected members. The offices of Treasurer and Comptroller were merged in one entitled Chief Financial Officer; and the offices of Secretary of State and Commission of Education were removed from the Cabinet.

This bill corrects statutory references to the former Cabinet structure, and corrects statutory voting requirements, to conform to the constitutional change.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: n/a

B. EFFECT OF PROPOSED CHANGES:

Background

Florida substantially changed its constitution in 1968. Concerned that one person (the Governor) might exercise too much power, the 1968 constitution created a cabinet system whereby the Governor would share executive branch powers with a Cabinet consisting of six other statewide officeholders. The 1998 Constitutional Revision Commission proposed reducing the size of the Cabinet from six to three members. In the November 1998 General Election, Florida voters approved Revision 8 making that change.

Revision 8 merged the elected Cabinet offices of Treasurer and Comptroller into a Chief Financial Officer, and eliminated the Cabinet office of Secretary of State and Commissioner of Education. The revision also altered the membership of the State Board of Administration to the Governor, Chief Financial Officer, and Attorney General; from the Governor, Comptroller, and Treasurer. Revision 8 took effect January 7, 2003.

Current law requires a certain vote before the Governor and Cabinet may take certain actions. With the reduction in the number of Cabinet members, there are actions that cannot currently be accomplished because the required number of votes exceeds the number of officeholders sitting as Governor and Cabinet.

Effect of Bill

This bill provides conforming changes relating to the Governor, Cabinet, and the Governor and the Cabinet collectively, or the Governor and certain members of the Cabinet sitting as boards, commissions, or other collegial bodies, as these provisions were affected by the enactment of Revision 8. In addition to correcting titles of Cabinet officers and simply recognizing where the size of the Cabinet has been reduced from 6 to 3 members, this bill makes the following changes:

This bill creates s. 14.2001, F.S., to comply with the change to art. IV, s. 4(a), Fla.Const., which provides that upon a tie vote in any meeting of the Governor and Cabinet, the Governor prevails.

Current law requires the approval of the Governor and 3 Cabinet members for affirmative action by the Administration Commission. Under the old Cabinet structure, the Governor plus 3 equaled a simple majority of 4 out of 7; although currently this requirement means a unanimous vote of the Governor and Cabinet. This bill amends s. 14.202, F.S., to require approval by the Governor and 2 Cabinet members (3 of the 4 total members) for affirmative action by the Administration Commission.

Current law provides for 16 total appointments by the Governor and Cabinet, and 6 by the legislative leaders, to the 22 member Florida Commission on the Status of Women. This bill amends s. 14.24, F.S., to provide for 14 appointments spread among the Governor and Cabinet, and 8 by the legislative leaders.

This bill amends s. 121.4501, F.S., to abolish the Public Employee Optional Retirement Program Advisory Committee. The Public Employee Optional Retirement Program was established to assist in the implementation of the Optional Retirement Program. The advisory committee has met its statutory requirements to provide recommendations to the State Board of Administration in 2001 and the committee is no longer active or necessary since this retirement program has been implemented.

This bill amends s. 215.44, F.S., to recognize the constitutional change of the State Board of Administration from the Governor, Treasurer and Comptroller; to the Governor, Attorney General, and Chief Financial Officer. See art. IV, s. 4(e), Fla.Const. The same change is also made to the composition of the Division of Bond Finance and the Financial Management Information Board (subsidiaries of the State Board of Administration).

Under the prior Cabinet structure, two now-eliminated Cabinet officers, Treasurer and Comptroller, sat on the coordinating council of Florida Financial Management Information System. This bill amends s. 215.96, F.S., to replace them with their successor, the Chief Financial Officer; and further adds the Attorney General, thereby keeping two Cabinet members on the council.

Under the prior Cabinet structure, the Governor and Cabinet together sat as the Board of Trustees of the Internal Improvement Trust Fund. Current law requires the approval of 5 members of the Board to sell, transfer, or otherwise dispose of state lands. Under the prior Cabinet structure, this required 5 of 7 votes, or 71%. Today, this vote is impossible as the Governor and Cabinet together only have 4 members. This bill amends ss. 253.02 and 253.034, F.S., to recognize that the Governor and the 3 current Cabinet members together constitute the Board (see art. IV, s. 4(f), Fla.Const.), and changes the number of votes required to dispose of state lands from 5 to 3 (75%). Similarly, this bill amends s. 259.041, F.S., to change from 5 to 3 the number of votes required to approve a special purchase by the Board of certain conservation lands.

This bill amends ss. 940.01 and 940.03, F.S., to reflect the change to art. IV, s. 8, Fla.Const, changing the affirmative vote required to grant clemency from the Governor and 3 Cabinet members to the Governor and 2 Cabinet members. Similarly, this bill amends s. 985.417, F.S., to require the same vote (Governor plus 2) before an individual convicted of a capital felony while under the age of 18 may be placed on probation.

C. SECTION DIRECTORY:

Section 1 amends s. 13.05, F.S., regarding the composition of the Governor's Committee on Interstate Cooperation.

Section 2 creates s. 14.2001, F.S., regarding tie votes in any meeting of the Governor and Cabinet.

Section 3 amends s. 14.202, F.S., regarding who may call a meeting of the Administration Commission.

Section 4 amends s. 14.24, F.S., regarding the Florida Commission on the Status of Women.

Section 5 amends s. 114.03, F.S., regarding absence from the state by executive officers.

Section 6 amends s. 121.0312, F.S., regarding actuarial review by the State Board of Administration.

Section 7 amends s. 121.055, F.S., regarding certain state employees in the Senior Management Class.

Section 8 amends s. 121.4501, F.S., to eliminate the Public Employee Optional Retirement Program Advisory Committee.

Section 9 amends s. 215.44, F.S., regarding the composition of the State Board of Administration.

Section 10 amends s. 215.62, F.S., regarding the governing board of the Division of Bond Finance.

Section 11 amends s. 215.95, F.S., regarding the composition of the Financial Management Information Board, a subsidiary of the Administration Commission.

Section 12 amends s. 215.96, F.S., regarding the composition of the Coordinating Council of the Financial Management Information Board.

Section 13 amends s. 253.02, F.S., regarding the composition of the Board of Trustees of the Internal Improvement Trust Fund.

Section 14 amends s. 253.034, F.S., regarding voting by the Board of Trustees of the Internal Improvement Trust Fund to sell state lands.

Section 15 reenacts s. 259.032, F.S., because it is cross-referenced elsewhere in the bill.

Section 16 amends s. 259.041, F.S., regarding voting by the Board of Trustees of the Internal Improvement Fund to approve a special purchase of lands.

Section 17 reenacts s. 260.016, F.S., because it is cross-referenced elsewhere in the bill.

Section 18 amends s. 940.01, F.S., regarding clemency votes by the Governor and Cabinet.

Section 19 amends s. 940.03, F.S., regarding clemency votes by the Governor and Cabinet.

Section 20 amends s. 985.417, F.S., regarding the number of votes of the Governor and Cabinet necessary to release on probation an offender who was a juvenile when he or she committed a capital felony.

Section 21 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: n/a

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There are no provisions to address who would be responsible for appointing new members to the Florida Commission on the Status of Women, once the terms for the members previously appointed by the Insurance Commissioner, the Comptroller, the Secretary of State, and the Commissioner of Education expire (Section 4 of the bill). However, this issue may be a matter that the commission and the appointing authorities can resolve.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

n/a