

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2318

SPONSOR: Senator Lee

SUBJECT: Lieutenant Governor; Successor

DATE: April 14, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	Favorable
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Senate Bill 2318 amends section 14.055, Florida Statutes, to provide that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor to serve for the remainder of the term. If, following such appointment, a vacancy in the office of Governor should occur and there are more than 28 months left in that term of office, electors shall select a Governor and Lieutenant Governor at the next general election.

The bill also amends section 14.055, Florida Statutes, to conform succession to the office of Governor to the cabinet reorganization constitutional amendment adopted at the 1998 general election.<sup>1</sup>

Senate Bill 2318 substantially amends section 14.055, Florida Statutes. The bill is effective upon becoming law.

## II. Present Situation:

Article IV, section 1 of the Florida constitution provides that the Governor shall fill a vacancy in an elected state office by appointment. If less than 28 months remain in the term of office at the time of the appointment, the appointee serves until the end of the term. If 28 months or more remain in the term of office, the appointee serves only until the position is filled by a person elected at the next general election.<sup>2</sup>

<sup>1</sup> Amendment 8, Restructuring the State Cabinet; General Election, Nov. 3, 1998.

<sup>2</sup> Art. IV, s. (1)(f), Fla. Const.

Article IV, section 5 of the Florida constitution provides that the governor and lieutenant governor run in tandem as a *joint candidacy* in the general election.<sup>3</sup> This provision effectively binds the election of a lieutenant governor to the election of a governor. This has the effect of allowing the governor to choose his or her lieutenant governor, and also insures, in conjunction with Florida Statutes, that the governor and lieutenant governor will be from the same political party.

The issue is what happens if there is a vacancy in the office of lieutenant governor and the remaining term of office is 28 months or greater. This is an issue which the 1968 Florida Supreme Court acknowledged as problematic, but did not have occasion to resolve.<sup>4</sup>

Succession to the office of governor currently includes the secretary of state, formerly an elective office now appointive, and the office of comptroller which, since cabinet reorganization, is now designated as the chief financial officer.

### III. Effect of Proposed Changes:

Upon a vacancy in the office of lieutenant governor, Senate Bill 2318 provides that the governor shall appoint a successor to serve for the remainder of the term. If, however, following an appointment, a vacancy in the office in the office of governor should occur and there are more than 28 months left in that term of office, electors shall choose a governor and lieutenant governor at the next statewide general election:

Under Senate Bill 2318 the order of succession to the office of governor shall be:

- a.) lieutenant governor,
- b.) attorney general
- c.) chief financial officer, and
- d.) commissioner of agriculture.

### IV. Constitutional Issues:

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

None.

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<sup>3</sup> Art. IV, s. 5(a), Fla. Const.

<sup>4</sup> *In re Advisory Opinion to the Governor*, 217 So.2d 289 (Fla. 1968). In the opinion, the Supreme Court advised Governor Claude Kirk that he had the authority to make an interim appointment to fill a vacancy in the office of lieutenant governor brought about by the creation of that office in the 1968 Constitution. The interim appointment was for less than 28 months. The court further acknowledge in *dicta*:

By way of caveat we must comment that if the office of Lieutenant Governor should become vacant during the first twenty months of a four year term there may be a conflict between Section 1(f) and Section 5 of Article IV.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

There is question whether mere passage of a statutory provision can remedy conflicting constitutional provisions.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Passage of Senate Bill 2318 and a vacancy in the office of governor may result in additional political contributions to a statewide race for governor and lieutenant governor at the 2004 general election.

**C. Government Sector Impact:**

Passage of Senate Bill 2318 and a vacancy in the office governor may result in indeterminate additional costs to add a gubernatorial race to the statewide general election that will take place in 2004.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.