

# CS/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.)

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Prepared By: Governmental Oversight and Productivity Committee

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BILL: CS/CS/SB 1368

INTRODUCER: Governmental Oversight and Productivity Committee, Banking and Insurance Committee, and Senator Atwater

SUBJECT: Financial Literacy Advisory Council

DATE: April 4, 2006

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute creates the Financial Literacy Council (council) within the Department of Financial Services (department). The council is designed to provide basic financial information to consumers and small businesses from a single state source and to provide recommendations to the department. The council is comprised of nine members appointed by the Chief Financial Officer. The bill provides for membership requirements, council meetings, and reports and authorizes the council to seek funding from the state and federal government and other sources.

The bill requires any funds received by the council to be deposited into the Administrative Trust Fund of the Department of Financial Services. The bill appropriates \$50,000 in non-recurring funds from the Administrative Trust Fund to the council to fund its activities, contingent upon prior receipt of grant funds or contributions by the council. The bill abolishes the council on December 31, 2011 and provides for the appropriation of any council funds to the department for funding activities that the department has implemented pursuant to the council's recommendations.

This bill creates an undesignated section of the Florida Statutes.

## II. Present Situation:

In 1996, approximately 1,000,000 personal bankruptcies were filed in the United States. Seven years later, in 2003, the number of personal bankruptcies totaled 1,625,813.<sup>1</sup> According to the

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<sup>1</sup> Administrative Office of the U.S. Courts. *Bankruptcies in the United States*. 2003.

Federal Reserve Board, the median balance in 2001 for consumers that had credit card debt was \$1,900.<sup>2</sup>

The Chief Financial Officer is the head of the Department of Financial Services. The Division of Consumer Assistance (division) within the Department of Financial Services has the authority to receive inquiries and complaints related to insurance or financial institutions from consumers, to fine insurers and others who fail to respond to requests for information, to provide assistance and advocacy to consumers, and to prepare and disseminate information about regulated products and services. The division maintains a toll-free hotline that provides consumers with information concerning the regulation of insurance agencies, insurance companies, financial institutions, mortgage brokerages, securities dealers, consumer finance companies, and for-profit providers of pre-need funeral and cemetery services. The division also provides online informational guides on insurance and financial matters.

### **Establishment of Advisory Bodies, Commissions, and Boards**

Section 20.052, F.S., requires each advisory board, commission, board of trustees, or any other collegial body created by a specific law to be established, evaluated, or maintained in accordance with certain provisions. These requirements include, but are not limited to the following:

- It may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.
- It must be terminated by the Legislature when it is no long necessary and beneficial.
- The Legislature and public must be kept informed regarding the activities of the entity.
- Private citizen members of a commission or board of trustees that is adjunct to an executive agency are required to be appointed by the Governor unless otherwise provided by law, must be confirmed by the Senate, and must be subject to the dual-office holding prohibition of s. 5(a), Art.II of the State Constitution.
- Unless a public records or meeting exemptions is otherwise enacted, the entity is subject to the requirements of chapters 119 and 286, F.S.
- Members are authorized to receive reimbursement for travel expenses, pursuant to s. 112.061, F.S.

### **III. Effect of Proposed Changes:**

**Section 1** establishes the Financial Literacy Council (council) within the Department of Financial Services (department). The council will act as a single state resource for consumers and small businesses to contact for assistance regarding basic financial information. The goals of the council include: equipping small businesses and individuals with the tools necessary to make financial decisions, facilitating the sharing of best practices for financial management that are characteristic of successful small businesses, and serving as an educational forum for resource planning, financial planning, and management issues for small businesses.

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<sup>2</sup> Federal Reserve Board, *Federal Reserve Bulletin*, January 2003.

## **Membership**

The council will be comprised of not more than nine members appointed by the Chief Financial Officer (CFO), head of the Department of Financial Services. Six members must be persons with experience in various areas of the financial industry, including financial institutions, finance, insurance, real estate, and securities. One member must be a person who is not employed by and is not a representative of the financial industry. At least one of the members must be chosen from a list of three persons submitted to the CFO by a senior advocacy group. At least one member must be chosen from a list of the persons submitted to the CFO by the Florida Council on Economic Education. The appointed members are to represent urban and rural interests and the ethnic and cultural diversity of the state's population.

Members of the council will serve at the pleasure of the CFO. The board will designate one member as chair and shall meet at the call of the chair or the CFO. Five of the initial members will be appointed for a term of three years or until his or her successor is appointed. The remaining members will serve for a term of four years or until his or her successor is appointed. The CFO will fill a vacancy filled for the remainder of the unexpired term. The Department of Financial Services will provide administrative support and staffing for the council.

The Financial Literacy Council is subject to s. 20.052, F.S., which provides requirements for the operations of councils established by law, including accountability to the Legislature, appointment of members, per diem and expense reimbursement pursuant to s. 112.061, F.S., and the applicability of the "Government-in-the-Sunshine" Laws for meetings and records, unless otherwise provided.

## **Meetings and Procedures**

The CFO will set the agenda for the council and it will include items of business requested by the council members. All meetings of the council must be in a state building in Tallahassee, Florida. A majority of the members will constitute a quorum and action by a majority of a quorum will be official. The council will make a report of each meeting's minutes to the CFO, indicating members present and a record of the council's discussions, recommendations, and actions taken. The CFO will keep the records of the proceedings of each meeting on file and is responsible for making the records available to any interested person.

## **Powers and Duties**

The council is charged with the duty of studying financial problems that affect consumers, particularly senior citizens, young persons, working adults, and small businesses due to a lack of knowledge of basic financial issues and making recommendations to the department. The council will assist the department in developing written materials to educate consumers and small businesses about basic financial issues.

The committee substitute provides that the council will cease to exist on December 31, 2011. Upon dissolution of the council, all funds of the council will be appropriated to the Department of Financial Services to fund the activities that the department has implemented pursuant to recommendations of the council.

### **Funding for the Council**

The bill allows the council to apply for and accept funds, grants, gifts, and services from the state and federal government or any other public or private source for offsetting any clerical and administrative costs associated with the council's duties. If the council does not receive any such funds in its first year of existence, it will cease to exist on July 1, 2007. The bill directs the council to use the talents, expertise, and resources within the state, particularly those of the public school, community college, and the university system. The bill requires state agencies to provide information and assistance to the council upon request, and encourages political subdivisions, municipal corporations, public officers, and school districts to provide information and assistance to the council. The bill requires all monies received by the council to be deposited into the Administrative Trust Fund of the Department of Financial Services and used solely for the council.

Effective January 1, 2008, the council will report annually on January 1, to the Governor, the President of the Senate, and the Speaker of the House on the activities carried out by the council and funding of the council.

**Section 2** appropriates \$50,000 in non-recurring funds from the Administrative Trust of the Department of Financial Services to the Financial Literacy Council and is contingent upon prior receipt of grant funds or contributions by the council. This money would be used to fund activities of the council for the 2006-2007 fiscal year.

**Section 3** provides that the act will take effect on July 1, 2006.

#### **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:**

Since the intent of the Financial Literacy Council is to provide financial advice and information to consumers and small businesses, this large sector of the population could benefit from activities of this council and become more financially responsible.

**C. Government Sector Impact:**

The bill appropriates \$50,000 in non-recurring funds from the Administrative Trust Fund within the Department of Financial Services to the council, contingent upon receipt of funds by the council, to fund activities of the council.

Each council member is entitled to reimbursement for per diem and travel expenses estimated at \$15,000 per year (\$250 per meeting, 4 meetings per year, and 15 members). A dedicated funding source is not identified in this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

It is unclear how the funds received by the council, whether by appropriation, or by grant or private contribution, will be spent, aside from defraying administrative costs. Further, though the bill provides that upon expiration of the council that any funds remaining will be appropriated to the department to fund activities recommended by the council, it is the Legislature which has the power to appropriate state funds and establish policy.



## **VIII. Summary of Amendments:**

None.

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

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