

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.)

Prepared By: Banking and Insurance Committee

BILL: SB 1368

INTRODUCER: Senator Atwater

SUBJECT: Financial Literacy Council

DATE: February 3, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the Financial Literacy Council (council) within the Department of Financial Services. The council is designed to provide basic financial information to consumers and small businesses from a single state source. The council is comprised of the Chief Financial Officer and up to nine other 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, 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 and to defray associated expenses of the Department of Financial Services, contingent upon prior receipt of grant funds or contributions by the council. The council is abolished on December 31, 2011.

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 1,625,813.¹ According to the Federal Reserve Board, the median balance in 2001 for consumers that had credit card debt was \$1,900.²

¹ Administrative Office of the U.S. Courts. *Bankruptcies in the United States*. 2003.

² Federal Reserve Board, *Federal Reserve Bulletin*, January 2003.

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 for residents of Florida 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.

III. Effect of Proposed Changes:

Section 1 establishes the Financial Literacy Council (council) within the Department of Financial Services. 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.

Membership

The council will be comprised of the Chief Financial Officer (CFO), or his or her designee, and not more than nine other members appointed by the CFO. Six members must be persons with experience in various areas of the financial industry, including banking, finance, insurance, real estate, and securities. At least 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 is to 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 for the council.

Each member of the council will receive reimbursement per diem and travel expenses pursuant to s. 112.061, F.S., relating to per diem and travel expenses of public officers, employees, and authorized persons.

Meetings and Procedures

The CFO will set the agenda for the council and it will include items of business requested by the council members. 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 young persons, seniors, working adults, and small businesses due to a lack of knowledge of basic financial issues. The council will develop written materials to educate consumers and small businesses about basic financial issues and establish an outreach program by providing education at meetings of affected persons, by seminars, or web-based media provided through the council.

The bill provides that the council will cease to exist on December 31, 2011.

Funding for the Council

The bill allows the council to apply for and accept funds, grants, gifts, and services from the state, the United States government or any of its agencies, or any other public or private source for offsetting any clerical and administrative costs associated with the council's duties. 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 allows the council to coordinate with any governmental agency of the state in furtherance of its mission. 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.

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 receipt of grant funds or contributions by the council. These money funds would be used to fund activities of the council and to provide funding to the Department of Financial Services for the purpose of defraying expenses incurred in the discharge of its administrative duties associated with the council.

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. These money funds would be used to fund activities of the council and to provide funding to the Department of Financial Services for the purpose of defraying expenses incurred in the discharge of its administrative duties associated with 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.

According to representatives of the DFS, regulators are ineligible to receive certain grants; however, these grants are awarded to organizations that have been created specifically for educating the public. The DFS noted that the National Association of Securities Dealers' Investor Education Foundation, which was established to provide investors with easily accessible information and tools to better understand investing and the markets, does not award grants to regulators and entities that are subject to regulation or entities affiliated with the regulator or a regulated entity. However, the council would not likely be eligible to receive such grants due to its affiliation with a regulator, even if the council could receive a determination from the Internal Revenue Service that it met

the criteria as a 501(c)(3) tax-exempt organization.³ (See the Technical Deficiencies Section, below.)

VI. Technical Deficiencies:

According to the National Association of Securities Dealers' Investor Education Foundation (foundation) website, the foundation awards grants to organizations designated as tax-exempt under section 501(c)(3) of the Internal Revenue Code and state and other public colleges and universities.⁴ Generally, many foundations and governmental entities require applicants to be 501(c)(3) tax-exempt organizations. In addition, a representative for the foundation indicated that the eligibility of the applicant is also evaluated in terms of whether the applicant is affiliated or is a subsidiary of entities ineligible for grants, such as regulators and regulated entities, which generally make the applicant ineligible. However, the bill creates the Financial Literacy Council within the Department of Financial Services, a regulatory agency, and the council is comprised of the Chief Financial Officer and up to nine persons appointed by the Chief Financial Officer.

Section 1 of the bill provides that the Financial Literacy Council will be repealed on December 30, 2011; however, the bill does not address how the balance of any unused funds, including grants provided by private foundations or governmental entities, would be distributed at that time. As a point of reference, the Internal Revenue Code (IRC) provides that the assets of a section 501(c)(3) organization must be permanently dedicated to an exempt purpose. If an exempt organization dissolves, its assets must be specifically distributed for an exempt purpose specified in the section 501(c)(3) or to a local, state, or federal government for a public purpose.

The bill requires the council to report to the Legislature on an annual basis regarding the activities of the council. Additional reporting requirements, such as information concerning the amount of donations or grants received and expended would assist in the Legislature in evaluating the performance of the council and provide greater accountability.

VII. Related Issues:

None.

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

³ Sections 501(c)(3), IRC.

⁴ www.nasdfoundation.org

VIII. Summary of Amendments:

None.

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