

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 816

INTRODUCER: Commerce Committee and Senator Garcia

SUBJECT: Legislative Sunset Review

DATE: March 18, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Favorable/CS
2.	Wilson	Wilson	GO	Pre-Meeting
3.	_____	_____	TA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The Florida Governmental Accountability Act¹ requires a detailed review of each state agency to ensure they operate in an efficient manner and provide an acceptable level of services to Floridians. The act provided for the establishment of a Joint Legislative Sunset Committee, as well as Senate and House legislative sunset review committees, to oversee the agency sunset review process and to make recommendations to the Legislature. At least 2 years prior to a sunset review, each state agency is required to submit a report to the Legislature detailing the effectiveness of that agency in meeting its performance goals, its interaction with the public, whether it is meeting its statutory obligations, and other relevant information.

The sunset review of the Executive Office of the Governor (EOG), which includes the Office of Tourism, Trade, and Economic Development (OTTED), currently is scheduled to be completed by July 1, 2022,² meaning EOG's report to the Legislature is due by July 1, 2020.

¹ Sections 11.901-920, F.S. (ch. 2006-146, L.O.F.)

² Section 11.905(8)(a), F.S.

CS/SB 816 moves up the sunset review of OTTED, its public-private partnerships, and all of its offices to July 1, 2010, and OTTED's agency report is due by October 1, 2009.

II. Present Situation:

Background on the Florida Governmental Accountability Act

Each state agency, including the water management districts and the statutorily created responsibilities of the constitutionally created Fish and Wildlife Conservation Commission, are subject to a "sunset" review process to determine whether the entity should be retained, modified or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S., related to:

- Agency performance measures;
- The agency complaint process;
- Public participation in making agency rules and decisions;
- Compliance with state purchasing goals and programs for specified businesses;
- Compliance with statutory objectives for each program and activity;
- Program overlap or duplication with other agencies;
- Less-restrictive or alternative methods of service delivery;
- Agency actions to correct deficiencies and implement recommendations of legislative and federal audit entities;
- The process by which an agency actively measures quality and efficiency of services it provides to the public;³
- Compliance with public records and public meetings requirements;
- Alternative program delivery options, such as privatization, outsourcing, or insourcing;
- Agency recommendations to improve program operations, reduce costs, or reduce duplication;
- The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished;
- Agency advisory committees;
- Agency programs or functions that are performed without specific statutory authority; and
- Other information requested by the Legislature.

This report is due 2 years prior to the date in which the agency and its advisory committees are scheduled to be reviewed by the Legislature. Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to serve as sunset review committees⁴ must review the information submitted. They also may request the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the agencies and their activities, and prepare a report on its findings.

³ This provision was added in s. 1 of ch. 2007-161, L.O.F., replacing the criterion, "potential conflicts of interest of its employees."

⁴ Historically in the Senate, the substantive committees have acted as the sunset review committees for the agencies within their jurisdictions.

Based on the agency submissions, the OPPAGA studies and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees, and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

In addition, the House and Senate sunset review committees must propose legislation necessary to carry out the committees' recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of review as specified in s. 11.905, F.S., provided the Legislature finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The initial review cycle began July 1, 2008, and runs through July 1, 2022. Each agency is subject to another sunset review 10 years after its initial review.

Agencies reviewed in the first cycle were: the Department of Agriculture and Consumer Services, the Department of Environmental Protection, the Department of Citrus, the Department of Highway Safety and Motor Vehicles, the five water management districts, and the statutorily created responsibilities of the Fish and Wildlife Conservation Commission. None has been abolished, but some advisory boards were repealed and other agency functions modified.

OTTED and its public-private partnerships

The Legislature abolished the state Department of Commerce in 1996 and replaced it with OTTED⁵ and a number of public-private entities to partner with OTTED to manage Florida's economic development. OTTED is housed within the Executive Office of the Governor, and is charged with helping develop and implement "coherent and consistent policies and strategies ...to provide economic opportunities for all Floridians."⁶ More specifically, OTTED:

- Has entered into contracts with Enterprise Florida, Inc., the Florida Tourism Commission, the Florida Sports Foundation, the Florida Black Business Investment Board, and Space Florida to help guide their activities related to promotion of the state's economic development;
- Provides administrative oversight and support to the Office of Film and Entertainment; and
- Oversees Florida's various economic development incentives, including the Quick Action Closing Fund, the enterprise zone program, the Rural Economic Development Initiative, and the Innovation Incentive Program.

⁵ Section 14.2015, F.S.

⁶ Section 14.2015(2), F.S.

OTTED's operations are funded with state general revenue. In the FY 2009-2010 General Appropriations Act, OTTED is budgeted 21 positions and \$3.45 million for executive direction and support services.

III. Effect of Proposed Changes:

Section 1 creates subsection (e) of s. 11.905(2), F.S., to schedule the sunset review of OTTED, its contracted public-private partners and any offices created by law within OTTED by July 1, 2010. OTTED's agency report is due to the Legislature by October 1, 2009.

Section 2 specifies that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Agencies under sunset review are required to submit a detailed report providing specific information for the Joint Legislative Sunset Committee and the Senate and House committees to evaluate. Reports submitted by the agencies now under review, as well as those reviewed last year, indicate a significant amount of agency staff resources are committed to producing these reports.

CS/SB 816 would require OTTED to submit its sunset review report by July 1, 2009. This is a significantly compressed time frame, relative to the time frames for the other agencies under review, both past and present.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Commerce Committee on March 17, 2009:

- Amends s. 11.905(2)(e), F.S., to move up the scheduled sunset review of OTTED, its contracted public-private partners, and any statutorily created offices within OTTED from July 1, 2022, to July 1, 2010.
- Specifies that OTTED's report to the Joint Legislature Sunset Review Committee and to House and Senate committees overseeing the review is due by October 1, 2009.

B. Amendments:

None.