

**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 Ethics and Elections Committee

BILL: SB 2216

INTRODUCER: Ethics and Elections Committee

SUBJECT: Dept. of State/Fl. Government Accountability Act

DATE: March 4, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	<b>Favorable</b>
2.	_____	_____	GO	_____
3.	_____	_____	TA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 2216 is the product of a mandatory review project relating to a review of the Division of Elections within the Department of State under the Florida Government Accountability Act.<sup>1</sup>

As part of the department’s Sunset Review, the Senate Committee on Ethics and Elections held a meeting on March 18, 2009, and heard extensive testimony regarding the duties and responsibilities of the division.<sup>2</sup>

On January 13, 2010, the Senate Committee on Ethics and Elections reviewed and considered Interim Mandatory Review 2010-214 and authorized committee professional staff to prepare this bill.

The Senate Committee on Ethics and Elections at its February 17, 2010, meeting reviewed the bill and directed this proposed committee bill be introduced.

The bill reenacts s. 20.10 (2) (a), F.S., relating to the creation of the Division of Elections within the Department of State.

<sup>1</sup> §§ 11.901-11.920, F.S.

<sup>2</sup> *Agency Sunset Review of the Division of Elections of the Department of State*, Issue Brief 2009-318, Florida Senate (October 2009) at < [http://www.flSenate.gov/data/Publications/2009/Senate/reports/interim\\_reports/pdf/2009-318ee.pdf](http://www.flSenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-318ee.pdf)> (Site last accessed on December 7, 2009).

## II. Present Situation:

### Sunset Review Overview

Sections 11.901-.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a “sunset” review process to determine whether the agency 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;
- 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.

Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

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

- 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.<sup>3</sup>

The review process for the Department of State began in July of 2008, when the department submitted its statutorily mandated agency report.

The Senate Ethics and Elections Committee is the primary sunset review committee for review of the Division of Elections within the Department of State. The Senate Transportation and Economic Development Appropriations Committee assisted in this review.

As part of the Sunset Review, the committee held a meeting on March 18, 2009, and heard extensive testimony regarding the duties and responsibilities of the division of elections. In 2008, the Senate Ethics and Elections Committee recommended in its Issue Brief, 2009-318, that the committee conduct further research to determine:

- The efficacy of using HAVA monies to fund the operational functions of the Bureau of Voter Registration Services; and
- Division compliance with the findings of the 2008 Auditor General follow-up to the 2006 Auditor General Operational Audit.

The committee reviewed and considered Interim Mandatory Review 2010-214. On January 13, 2010, the committee made the following recommendations:

**Recommendation #1**

The Legislature should retain the Division of Elections of the Department of State since programs and functions of the division are not currently duplicated by any other agency of Florida government.

**Recommendation # 2**

The Legislature should recognize and address the Department of State's anticipated future use of HAVA monies to ameliorate the funding needs of the Division of Elections, especially in light of anticipated HAVA funds depletion during fiscal year 2017 2018.

**Recommendation # 3**

The Legislature should continue to follow up with the department regarding its implementation of its response to the Auditor General's 2008 follow up to its 2006 audit by:

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<sup>3</sup> §§ 11.901-11.920, F.S.

- Confirming when a solution is found to provide detailed traffic auditing and reporting given that the department's Network Access Control Solution did perform up to standards.
- Confirming when a disaster recovery plan is created that includes FVRS.
- Continued monitoring of the department's systematic felon matching program.

After review and consideration of the Interim Mandatory Review 2010-214 on January 13, 2010, the Senate Committee on Ethics and Elections authorized the committee professional staff to prepare this bill. The Senate Committee on Ethics and Elections at its February 17, 2010, meeting reviewed the bill and directed this proposed committee bill be introduced.

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

The bill reenacts s. 20.10 (2) (a), F.S., relating to the creation of the Division of Elections within the Department of State. The reenactment of s. 20.10 (2) (a), F.S., will have the effect of continuing the Division of Elections within the Department of State.

### **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:**

None.

### **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.)

None.

**B. Amendments:**

None.

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

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