

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 5611 **PCB GOA 10-03** Department of Management Services

SPONSOR(S): Government Operations Appropriations Committee and Hays

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Government Operations Appropriations Committee	9 Y, 5 N	Dykes	Topp
1)	Full Appropriations Council on Education & Economic Development	17 Y, 0 N, As CS	Dykes	Voyles
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Department of Management Services (DMS) is the administrative arm of Florida's state government. The bill amends statutes relating to DMS to conform to the proposed House General Appropriations Act by:

- Repealing s. 287.0573, relating to the creation of the Council on Efficient Government and making corresponding changes to other sections of law. Eliminating the council's support office within DMS will provide operating budget savings of \$447,038. The revenues used to fund the office will be redirected to the General Revenue Fund.
- Requiring that the vendor transaction fees collected by the department for use of its statewide electronic procurement and information services system in excess of what is needed to fund legislatively authorized disbursements will be redirected to the General Revenue Fund.

This bill redirects approximately \$1.9 million of trust fund revenue to the General Revenue Fund.

This bill takes effect on July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Council on Efficient Government

Background:

Under the Florida Government Accountability Act,¹ most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished. During the 2010 Regular Session, among the departments that the Legislature will review is the Department of Management of Services.² Part of that review includes an examination of agency advisory committees.³

The Council on Efficient Government was created within the department pursuant to s. 287.0573, F.S., for the purpose of reviewing, evaluating, and issuing advisory reports on business cases submitted to the council as specified by the requirements of ss. 287.0573 and 287.0574, F.S. The council consists of seven members appointed by the Governor – the Secretary of the Department of Management Services (serves as chair), a cabinet member other than the Governor or an executive staff designee, two heads of executive branch agencies, and three members with relevant experience from the private sector who are subject to confirmation by the Senate.⁴

The council is supported by the Office of Efficient Government organizationally housed within the department's Purchasing Oversight budget entity. Sec. 287.0573(10), F.S., authorizes the department to employ an adequate number of staff who collectively possess significant expertise and experience as required to carry out the responsibilities of the council. When initially created, the office was authorized 10 full time positions and an annual operating budget of \$1.75 million in recurring General Revenue. Currently, the office has four positions, including the director position, with an annual operating budget of \$447,038 funded by the transaction fees collected by the department from vendors in connection with the statewide electronic procurement and information services system.⁵ The director position and one staff position are vacant.⁶

¹ See ss. 11.901-11.920, F.S.

² See s. 11.905, F.S.

³ See s. 11.906, F.S.

⁴ See s. 287.0573, F.S.

⁵ See pg. 340-341, Fiscal Year 2009-10 General Appropriations Act.

⁶ State Personnel Vacancy Report dated February 17, 2010, on file with the Government Operations Appropriations Committee.

In light of such factors as the state's economic condition and budgetary constraints, there has been a decline in the number of large outsourcing initiatives by state government. Council staff did not review any outsourcing proposals in either Fiscal Year 2007-08 or Fiscal Year 2008-09 that met the \$10 million annual cost threshold for review by the full council, nor was there need for the council to submit an advisory report to an agency, Governor and Legislature.⁷ The council has not met in 2010. The council met two times during 2008 and 2009, respectfully, and four times during 2007.⁸

The Secretary of the department recommends that the Legislature abolish the council due to lack of outsourcing activity by state government.⁹ According to the council's most recent annual report, it has developed standards and best practice procedures for agencies to use when developing business cases as well as a standardized process for reviewing business cases if the council were abolished.¹⁰

The Joint Legislative Sunset Committee recommends abolishing the council, but to maintain the business model requirements for agencies that are considering an outsourcing initiative.¹¹ HB 7159, by the Government Accountability Act Council, abolishes the council and its related duties.

Effect of Bill:

This bill repeals the statutes relating to the creation of the Council on Efficient Government. Abolishing the council should not have an adverse effect on state outsourcing and contracting. For any proposed outsourcing, a state agency will remain responsible for developing a business case that justifies the proposal to outsource. State agencies will be required to submit the business case to the Governor and Legislature in the form and manner required by the budget instructions issued pursuant to ss. 216.023(1), (2) and (4)(a)7., F.S., augmented with additional information if necessary. All other statutory provisions pertaining to state agency outsourcing initiatives and business case requirements governed by ss. 287.0572 and 287.0574, F.S., will remain in effect.

The council-developed standards and best practice procedures for agencies to use when developing business cases as well as a standardized process for reviewing business cases will remain available for agency use.

This bill conforms to the proposed House General Appropriations Act by eliminating the council. The four-member support staff and operating budget will no longer be needed. As a result, the portion of the transaction fees collected by the department from vendors in connection with the statewide electronic procurement and information services system used to fund the support staff in the amount of \$447,038 will be redirected to the General Revenue Fund, on a recurring basis, to help balance the state's General Revenue budget.

E-Procurement System Transaction fees Collected by the Department

Background:

Pursuant to ss. 287.042 and 287.057, F.S., the department has the authority to collect transaction fees from private sector vendors for the use of its electronic procurement and information services system. All transaction fees collected under this statutory provision are required to be used for disbursements as provided by law. In the annual General Appropriations Act, these transaction fees are authorized for the purpose of making contractor payments associated with the statewide electronic procurement and information services system and for department administrative costs for most functions and services within the department's Support Program.

⁷ Letter dated October 16, 2009 from DMS Secretary South to the Joint Legislative Sunset Committee.

⁸ DMS website: Council on Efficient Government/Council Meetings.

⁹ Letter dated October 16, 2009 from DMS Secretary South to the Joint Legislative Sunset Committee.

¹⁰ Letter dated October 16, 2009 from DMS Secretary South to the Joint Legislative Sunset Committee & DMS website: Council on Efficient Government/Reports/Annual Reports/Annual Report 2009.

¹¹ Joint Legislative Sunset Committee Meeting Packet dated March 8, 2010.

The Office of Supplier Diversity, Fleet Management, the support staff for the Council on Efficient Government, and the Division of State Purchasing, are within the department's Support Program and are funded by the transaction fees collected.¹²

Transaction fees collected from vendors in excess of what is needed to fund the legislatively authorized disbursements accumulate in an operating trust fund and become unobligated cash balances. These cash balances are deposited with the State Treasury and earn modest rates of return. Excess cash balances have been transferred to the General Revenue Fund in past years.

Effect of Bill:

This bill amends ss. 287.042 and 287.057, F.S., to require that the vendor transaction fees collected by the department for the use of its statewide electronic procurement and information services system in excess of what is needed to fund the legislatively authorized disbursements will be redirected to the General Revenue Fund to prevent further accumulation of unobligated cash balances within the operating trust fund used by the Support Program.

B. SECTION DIRECTORY:

Section 1. Amends s. 287.042, F.S., providing that transaction fees collected by the Department of Management Services for the use of its electronic information services in excess of the obligations and encumbrances to cover the department's costs of providing the services shall be calculated annually and transferred to the General Revenue Fund.

Section 2. Amends s. 287.057, F.S., providing that transaction fees collected by the Department of Management Services for the use of the services of its online procurement systems in excess of the obligations and encumbrances to cover the department's costs of providing the services shall be calculated annually and transferred to the General Revenue Fund.

Section 3. Amends s. 287.05721, F.S., repealing the definition of "council" as it relates to the Council on Efficient Government.

Section 4. Repeals s. 287.0573, F.S., relating to the creation of the Council on Efficient Government within the Department of Management Services.

Section 5. Amends s. 287.0574, F.S., conforming provisions to the elimination of the Council on Efficient Government, and requiring that a business case be submitted in the form and manner required by the budget instructions.

Section 6. Provides an effective date of July 1, 2010.

¹² See pg. 340-342, Fiscal Year 2009-10 General Appropriations Act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

See "Fiscal Comments" section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Based on an accrual fund balance analysis of the Purchasing Operating Trust Fund, it is estimated that approximately \$1.9 million of excess transaction fee revenue would be redirected to the General Revenue Fund, on a recurring basis, by abolishing the Council on Efficient Government and its support staff, and by amending ss. 287.042 and 287.057, F.S., requiring that transaction fees collected from vendors in excess of what is needed to fund legislatively authorized disbursements be redirected to the General Revenue Fund.

Recurring budget impact to the department's Purchasing Operating Trust Fund by abolishing the Council on Efficient Government and its support staff:

2010-11

Positions	(4.00)
Salary Rate	(260,673)
Recurring Budget Savings	(\$447,038)
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III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 23, 2010, the Full Appropriations Council on Education and Economic Development heard HB 5611 and reported the bill favorably as a council substitute. The bill as filed pertained to repealing the statutes creating the Council on Efficient Government, its duties, and support staff. The bill also repealed certain provisions of statutes creating the Office of Supplier Diversity and the Minority Business Certification Task Force and transferring some of the office's responsibilities to the Division of State Purchasing. Finally, the bill required that the private sector vendor transaction fees collected by the department for use of its statewide electronic procurement and information services system in excess of what is needed to fund legislatively authorized disbursements will be redirected to the General Revenue Fund.

The council substitute removes all statutory amendments pertaining to the Office of Supplier Diversity and the Minority Business Certification Task Force.