

FINAL BILL ANALYSIS

BILL #: CS/CS/SB 1346

FINAL HOUSE FLOOR ACTION:

102 Y's 8 N's

SPONSOR: Commerce and Tourism (Rep. Holder)

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/HB 4041; HB 7163; HB 7165; HB 7167; HB 7169; HB 7171; HB 7173; HB 7175; HB 7177; HB 7179; includes part of SB 2156

SUMMARY ANALYSIS

The bill repeals obsolete statutes and was passed by the House on May 4, 2011 as CS/CS/SB 1346.¹ The bill was approved by the Governor on June 21, 2011, chapter 2011-213, Laws of Florida, and becomes effective July 1, 2011. The bill amends or repeals 35 obsolete references to the former Department of Labor and Employment Security, or one of its former programs, and ten obsolete references to the Department of Commerce still remaining in Florida Statutes. Additionally, the bill repeals or amends several obsolete statutes related to the Department of Children and Family Services, the Governor's Office of Tourism, Trade, and Economic Development, and the Agency for Workforce Innovation.

¹ The repealer package included the following: CS/HB 4041, HB 7163, HB 7165, HB 7167, HB 7169, HB 7171, HB 7173, HB 7175, HB 7177, and HB 7179.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Several “repealer” bills were packaged together and passed by the House on May 4, 2011, as CS/CS/SB 1346.² Previously, CS/CS/SB 1346 was passed by the Senate on April 29, 2011. The bill amends or repeals 35 obsolete references to the former Department of Labor and Employment Security, or one of its former programs, and ten obsolete references to the Florida Department of Commerce still remaining in Florida Statutes. Additionally, the bill repeals or amends several obsolete statutes related to the Department of Children and Family Services (DCF), the Governor’s Office of Tourism, Trade, and Economic Development (OTTED), and the Agency for Workforce Innovation (AWI).

Certain Agreements Related to the Department of Labor and Employment Security (HB 7163)

The Department of Labor and Employment Security (DLES) was created in 1978 when it was removed from the Florida Department of Commerce.³ It consisted of one administrative support division, six program divisions, and administratively housed several independent entities.

The process for the abolishment of DLES began in the 1999 Legislative Session,⁴ and subdivisions and programs of the department were transferred or repealed through several legislative bills until the department was formally abolished by the Legislature in 2002.

Section 288.038, F.S., provides DLES with authority to enter into an agreement with a county tax collector for the purpose of appointing the county tax collector as the department’s agent to accept applications for licenses or other similar registrations and applications for renewals of licenses or other similar registrations. The agreement had to specify the time within which the tax collector must forward any applications and accompanying application fees to the department.

Since DLES has been abolished, this statute is obsolete.

Changes made by the bill

The bill repeals s. 288.038, F.S., to remove this obsolete section of law.

Employment with the Department of Children and Family Services (CS/HB 4041)

In 1969, s. 409.015(3)(a), F.S., established the State Board of Social Services, a nine-member board appointed by the Governor and confirmed by the Senate for four-year terms. The last sentence of the subparagraph prohibited a federal, state, county or municipal officer or employee from serving as a member of the board. The exact reason officers were not allowed to serve on the board is unknown.

² The repealer package included the following: CS/HB 4041, HB 7163, HB 7165, HB 7167, HB 7169, HB 7171, HB 7173, HB 7175, HB 7177, and HB 7179.

³ Chapter 78-201, L.O.F.

⁴ Chapter 99-240, L.O.F.

Since 1969, several changes in statutes have occurred. The Department of Health and Rehabilitative Services (HRS) was created and many boards and councils were abolished or absorbed into the new department. In recent years, numerous organizational changes have been enacted. Throughout these changes, the prohibition for a federal, state, county or municipal officer or employee to serve as a member of the state board was changed to a prohibition to serve as an employee of DCF.⁵

Change made by the bill

The bill eliminates the statutory provision preventing DCF from hiring employees who may be federal, state, county or municipal officers. Removal of the prohibition will allow persons who are currently employed at DCF to seek public office or serve as a local official without leaving DCF. The change will eliminate language from the statute that appears to be obsolete.

Florida-Caribbean Basin Trade Initiative (HB 7165)

In 2000, the Legislature created the Florida-Caribbean Basin Trade Initiative as part of the Seaport Employment Training Grant Program (STEP). STEP was required to establish and administer the Florida-Caribbean Basin Trade Initiative for the purpose of assisting small and medium-sized businesses to become involved in international activities and helping them to identify markets with product demand, identify strategic alliances in those markets, and obtain the financing to effectuate trade opportunities in the Caribbean Basin. The initiative was designed to focus assistance to businesses located in urban communities and offer export readiness, assistance and referral services, internships, seminars, workshops, conferences, and e-commerce plus mentoring and matchmaking services, but not duplicate Enterprise Florida services. STEP was required to administer the Initiative pursuant to a performance-based contract with OTTED.

The Legislature allocated \$300,000 to be administered by STEP for establishing the Florida-Caribbean Basin Trade Initiative, but no additional funding has been appropriated since that time. In addition, Enterprise Florida staff states that the program has been inactive since it was created in 2000.

Changes made by the bill

The bill repeals s. 288.386, F.S., which created the Florida-Caribbean Basin Trade Initiative.

Florida Trade Data Center (HB 7167)

The Legislature created the Florida Trade Data Center in 1992 as a comprehensive trade data resource and research center. The purpose of the Center was to create a trade information system that provided timely import and export information, trade opportunities, intermodal transportation information that measures cargo flow by transportation mode, commodity trends, trade activity between Florida and specific countries, and other relevant information. The Center has been inactive since 1999.

⁵ Ch. 70-255, L.O.F., abolished the State Board of Social Services and provided for the creation of the Division of Children Services under the Department of HRS. The chapter law changed the prohibition on serving as a member of the board to serving as an employee of the Division of Children Services. It also was changed to address only officers. The language included in s. 409.135, F.S., was later transferred to s. 402.35, F.S., and amended to refer to the Department of Children and Family Services.

Changes made by the bill

The bill removes obsolete references to the Florida Trade Data Center in s. 288.012(2)(c), (d), and (e), F.S., (State of Florida Foreign Offices), s. 288.386(2), F.S., (Florida-Caribbean Basin Trade Initiative, and s. 311.07(3)(a), F.S., (Florida seaport transportation and economic development funding).

Microenterprises (HB 7169)

In 1997, the Legislature authorized OTTED to contract with a nonprofit or governmental organization to foster microenterprise development in Florida. The Legislature appropriated \$1 million to OTTED to support this endeavor in Fiscal Year 1997-98. OTTED subsequently entered into a contract with Enterprise Florida, Inc., to develop and administer a microloan program. EFI, in turn, outsourced the program's administration to a consulting firm. The program, known as MicroEnterprise Florida, provided competitive grants to 17 community-based nonprofit organizations located throughout the state.

Under the program, the nonprofit organizations provided technical assistance and loans to low and moderate income individuals to help them achieve self-sufficiency through self-employment. Loan amounts ranged from \$500 to \$10,000. Loan repayments were made to the microloan providers so they could be used to capitalize additional loans. MicroEnterprise Florida reported that it assisted 216 microenterprise start-ups and 16 expanding businesses in Fiscal Year 1998-99. However, Enterprise Florida, Inc., representatives reported that approximately 70% of businesses assisted by the program failed. The Legislature did not fund the program after Fiscal Year 1997-98.

Changes made by the bill

The bill repeals s.288.9618, F.S., which created the microenterprise law.

Obsolete Public Records Exemption (HB 7171)

In 2004, the Legislature exempted from public disclosure certain records held by the Governor's Advisory Council on Base Realignment and Closure (BRAC) or OTTED. Specifically, that portion of a record was confidential and exempt that related to the: (1) strengths and weakness of military installations or missions in the state; (2) vulnerability or immunity of military installations in other states; and (3) state's strategy to retain its military installations in response to the 2005 BRAC round. Portions of the Governor's BRAC Advisory Council meetings or subcommittee meetings were also exempt from the Sunshine Law when the above exempt records were presented or discussed. Any records generated at those closed portions of the Advisory Council's meetings were also exempt from the public records law. The exemption was repealed on May 31, 2006, but remains in statute.

Changes made by the bill

The bill repeals s. 288.982, F.S., which created this exemption.

Inner City Redevelopment Review Panel (HB 7173, SB 2156)

In 2000, the Legislature created the Inner City Redevelopment Assistance Grants Program to be administered by OTTED. The Legislature also created the Inner City Redevelopment Review

Panel within OTTED to review grant proposals. Members were appointed by the Director of OTTED and were required to demonstrate experience and/or education in the redevelopment of the state's inner city in order to qualify. The panel was organized as follows:

- One member affiliated with the Black Business Investment Board;
- One member affiliated with the Institute on Urban Policy and Commerce at FAMU;
- One member affiliated with OTTED;
- One member who is also the president of Enterprise Florida, Inc. or the president's designee;
- One member who is also the Secretary of the Community Affairs or the secretary's designee;
- One member affiliated with the Better Jobs/Better Wages of Workforce Florida, Inc., if created. Otherwise, the member will be the president and chief operating officer of the Florida Workforce Development Board; and
- One member who is with the First Job/First Wages Council of Workforce Florida, Inc. If created. Otherwise, the member must be the Secretary of Labor and Employment Security or the secretary's designee.

OTTED reports that the review panel is inactive.

Changes made by the bill

The bill repeals s. 409.946, F.S., which created the Inner City Redevelopment Review Panel.

Displaced Telecommunication Workers (HB 7175)

In 1995, the Legislature created s. 446.60, F.S., to provide assistance to certain telecommunications workers. The statute provides that the now abolished Department of Labor and Employment Security was to provide assistance to local exchange telecommunications company workers pursuant to any applicable state or federal program within its jurisdiction, to any individual employed in the state by a local exchange telecommunications company on June 30, 1995, who is displaced, dislocated, severed, or retired from employment as a result of the introduction of competition under the act. The assistance was required to include maintaining a database of such workers to assist the industry in recruiting a trained workforce, if so requested by the worker. In addition, the Department of Labor and Employment Security was required to coordinate with the Enterprise Florida Jobs and Education Partnership, the Department of Commerce, and the Department of Education to assist new, existing, or expanding telecommunications businesses in Florida to apply for training grants under the guidelines and criteria of the Quick-Response Training Program.

The timing of the worker job assistance under this statute has closed and the statute is inactive.

Changes made by the bill

The bill repeals s. 409.946, F.S., which directed the former Department of Labor and Employment Security to provide assistance to displaced local exchange telecommunications company workers.

Rulemaking Authority (HB 7177)

Section 944.708, F.S., requires the Department of Corrections and the Agency for Workforce Innovation to adopt rules to implement the Transition Assistance Program Act.⁶ The statute was amended in 2010 to change a reference from the Department of Labor and Employment Security to AWI. The Department of Corrections has adopted Rule 33-601.504, F.A.C., which provides policies for the Transition Assistance Program. Section 944.708, F.S., mandates that both the Department and AWI adopt rules to implement the Transition Assistance Program Act. However, AWI has taken the position that rulemaking is unnecessary because the Act imposes no duties upon the Agency. Acting upon that information, Joint Administrative Procedures Committee has recommended the removal of AWI rulemaking authority from this statute.

Changes made by the bill

The bill removes the requirement that AWI adopt rules in accordance to s. 944.708, F.S.

Outdated Provisions Related to Vulnerable Children and Adults (HB 7179)

The bill repeals the following sections of law which either are outdated, no longer effective or no longer being implemented:

Child Abuse Prevention Training in the District School System

Repeals s. 39.0015, F.S., which created the “Child Abuse Prevention Training Act of 1985”. This Act encouraged the Department of Education to implement abuse prevention training for all school teachers, guidance counselors, parents, and children in the district school system. Rules were not created relating to this section and the program was never implemented by the Department of Education.

Model Plan for Intervention and Treatment in Sexual Abuse Cases

Repeals s. 39.305, F.S., which requires DCF to develop a model plan for community intervention and treatment of intra-family sexual abuse. The model plan was never developed. However, other sections of law provide for collaborative efforts that include child protection teams,⁷ agreements with local law enforcement regarding investigations,⁸ and mandatory notification requirements regarding abuse.⁹

Family Builders Program

Repeals ss. 39.311-318, F.S., which created the Family Builders Program. Family Builders services were designed to assure the safety of children and allow them to remain with their families instead of entering out-of-home care, such as shelter and foster care, as a result of abuse or neglect. The state’s transition to a community-based child welfare system gradually supplanted state-operated programs such as Family Builders. DCF no longer operates the program and has recommended that the program be repealed.

Authorization for Pilot and Demonstration Projects

Repeals s. 39.816, F.S., which was enacted in 1998 and requires DCF, contingent on a federal grant, to establish one or more pilot projects related to the goals of the Adoption Safe Families Act. It is unknown whether the projects were ever established and the statutory language for such projects is obsolete.

⁶ ss. 944.701-944.707, F.S.

⁷ s. 39.303, F.S.

⁸ s. 36.306, F.S.

⁹ s. 39.301, F.S.

Foster Care Privatization Demonstration Pilot Project

Repeals s. 39.817, F.S., which requires the establishment of a foster care privatization demonstration project. The statute is obsolete as foster care and related services are currently privatized statewide through community based care organizations.

The Commission on Marriage and Family Support Initiatives

Repeals s. 383.0115, F.S., which created the Commission on Marriage and Family Support Initiatives. The Commission was required to develop a community awareness campaign related to marriage promotion. The Commission last received funding in 2008 and is no longer in operation.

Financial Commitment to Community Services Program

Repeals s. 393.22, F.S., which provides specific guidelines for transferring funds from the institution budget to the community budget when a developmental disabilities center discharges enough persons to close a residential unit. The section also provides that funds used to support at least 80 percent of the direct cost to serve people in a closed unit must be shifted to community services. The language is not needed as the use of these funds is directed by the General Appropriations Act. Further, legislative findings and intent provide a preference for community services in lieu of of services in a developmental disabilities center.¹⁰

Respite and Family Care Subsidy Expenditures

Repeals s. 393.503, F.S., which requires the Agency for Persons with Disabilities (APD) to report to the Family Care Councils the annual expenditures for respite care and family care subsidies for individuals living at home. The law also requires the Family Care Council to review the information and make recommendations to APD when new funds become available. Under current law, clients of APD are served based on their assessed need within the funds available.¹¹ Because services are not provided to individuals based on the funding of specific programs, this section of law is inconsistent with the current statutory direction for these programs.

Constitutional Requirements for Involuntary Civil Commitment

Repeals s. 394.922, F.S., which requires that long-term control, care, and treatment of sexually violent predators, who are involuntarily civilly committed, conform with constitutional protections. Personal protections afforded to all citizens under the Florida Constitution and the U.S. Constitution are not impeded by involuntary civil commitment and remain in effect without restating such protections in statute.

Requirement for Distinguishable Definitions of Child Care

Repeals s. 402.3045, F.S., which requires DCF to adopt, by rule, a definition for child care. This is redundant language since the exact same language is contained in s. 402.305(1)(c), F.S.

Administrative Infrastructure

Repeals s. 402.50, F.S., which requires DCF to develop standards for administrative infrastructure funding and staffing to support the department and contract providers. DCF has undergone several reorganizations since this statute was enacted, including a restructuring of administration. This section of statute is outdated and no longer necessary.

¹⁰ s. 393.062, F.S.

¹¹ s. 393.0661, F.S.

Management Fellows Program

Repeals s. 402.55, F.S., which established the Management Fellows Program at DCF and the Department of Health. The program was created in 1991 to identify, train, and promote employees with high levels of administrative and management potential. The program is inactive.

Incentives for Department Employees

Repeals s. 409.1672, F.S., which authorizes DCF to develop monetary performance incentives such for department employees that engaged in activities related to dependent children or social and economic assistance. Based on reports from DCF, this section of law has never been used due to lack of funds.

Alternative Care Plans

Repeals s. 409.1673, F.S., which relates to out-of-home placements for children in the legal custody of the department. This section of law was enacted at the early stages of the transition to community-based care and now obsolete.

Annual Report to Legislature Relating to Children in Foster Care

Repeals s. 409.1685, F.S., which requires DCF to submit a report each year to the Legislature concerning the status of children in foster care. The specified content of the report is outdated.

Family Policy Act

Repeals ss. 409.801-803, F.S., which created the Family Policy Act. The Act required DCF to establish a two year pilot program in one rural and one urban county to provide funding and resources for shelters and foster homes. Provisions regarding these services exist in ch. 39, 402, and 409, F.S., which more accurately reflect the current philosophy and practice relating to foster children and their parents.

The bill provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.