

FINAL BILL ANALYSIS

BILL #: *SB 1204*

FINAL HOUSE FLOOR ACTION:

96 Y's 20 N's

SPONSOR: *Thrasher (Aubuchon)*

GOVERNOR'S ACTION:

Approved

COMPANION BILLS: *HB 7017*

SUMMARY ANALYSIS

SB 1204 passed the House on March 10, 2011. The bill was approved by the Governor on May 5, 2011, chapter 2011-34, Laws of Florida, and became effective May 5, 2011.

The bill is part of a reform package to be considered with SCR 1202, a concurrent resolution proposing the establishment of the Joint Rules of the Florida Legislature for the 2010-2012 term. Portions of that concurrent resolution create Joint Rules relative to this bill. Please see the bill analysis for HCR 7015, for a detailed analysis on the concurrent resolution.

This bill removes statutory language purporting to create or direct joint legislative committees and joint legislative offices allowing the current legislature to assert direct administrative oversight through the adoption of Joint Rules. Thus, current and future legislative bodies are not bound by a former legislature's organization and staffing.

This bill also establishes statutory definitions consistent with governance by joint rule for the Administrative Procedures Committee, the Legislative Auditing Committee, the Office of Program Policy Analysis and Government Accountability, and the Office of Economic and Demographic Research.

The bill repeals sections of statute which create the following legislative commissions, councils or committees:

- Legislative Committee on Intergovernmental Relations
- Joint Legislative Committee on Everglades Oversight
- Joint Legislative Sunset Committee
- The (unnamed) joint select committee created to review the findings and recommendations of the Century Commission for a Sustainable Florida
- Technology Review Workgroup
- Legislative Commission on Migrant and Seasonal Labor
- Council for Education Policy Research and Improvement

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

This bill removes statutory language purporting to create or direct joint legislative committees and joint legislative offices allowing the current legislature to assert direct administrative oversight through the adoption of Joint Rules. Thus, current and future legislative bodies are not bound by a former legislature's organization and structure.¹

Office of Program Policy Analysis and Governmental Accountability

Section 11.51, F.S. creates the Office of Program Policy Analysis and Government Accountability (OPPAGA) as a unit within the Office of the Auditor General and provides that the office must perform independent examinations of specified state programs. The section sets forth the process by which the director must share the findings of an examination with the program examined and provides a timeline for the program to subsequently inform OPPAGA of what the program has done to respond to the recommendations made in the report.

Section 11.511, F.S. provides that the Legislative Auditing Committee shall appoint the director of OPPAGA by majority vote of the committee, subject to confirmation by a majority vote of the Senate and the House of Representatives. The section sets forth the qualifications of the director and the process for reappointment and termination of the director. The section also sets forth qualifications for staff of the office and the duties of the office.

Section 11.513, F.S. requires OPPAGA to conduct a program evaluation and justification review of each state agency and sets forth what must be included in the review.

The bill amends s. 1.01, F.S. to provide that the term "OPPAGA" means an entity designated by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives. As such, it deletes provisions in section 11.51, F.S., relating to the creation and the duties of OPPAGA. These provisions are superseded by Joint Rule.

The bill repeals sections 11.511 and 11.513, F.S., all of which are repealed, moved to, or superseded by Joint Rule.

Please see HCR 7015 and the corresponding bill analysis for a detailed analysis on OPPAGA.

Administrative Procedures Committee

Section 11.60, F.S. creates the Administrative Procedures Committee, a joint standing committee of the Legislature. The statute sets forth the composition of the committee, the appointment of the chair and the duties of the committee which generally relate to reviewing agency administrative rules. The statute also provides for the appointment of an executive director and general counsel by a majority vote of the members of the committee.

¹ The Legislature has an absolute right to repeal or modify any statute, as long as its actions do not transgress constitutional requirements. Thus, the power of a future legislature cannot be limited by the acts of a present or prior legislature. *Nue v. Miami Herald Publishing Co.*, 462 So. 2d 821 (Fla. 1985); *Internal Improvement Fund v. St. Johns River Co.*, 16 Fla. 531 (Fla. 1878); *Gonzales v. Sullivan*, 16 Fla. 791 (Fla. 1878).

The bill amends s. 1.01, F.S. to provide that the term “Administrative Procedures Committee” means a committee designated by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives.

The bill repeals section 11.60, F.S. Each paragraph is moved to or superseded by Joint Rule. *Please see HCR 7015 and the corresponding bill analysis for a detailed analysis on the Administrative Procedures Committee.*

Committee on Public Counsel Oversight

Section 350.012, F.S., creates the Committee on Public Counsel Oversight, a standing joint committee of the Legislature. The section sets forth the composition of the committee, the terms of the members and the appointment of the chair. The section provides that the committee shall appoint a Public Counsel and is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

The bill repeals s. 350.012, F.S. and makes conforming changes to s. 350.0614, F.S. and s. 350.061, F.S. providing that the Committee on Public Counsel Oversight is established by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives. Each paragraph of s. 350.012, F.S. is moved to or superseded by Joint Rule. *Please see HCR 7015 and the corresponding bill analysis for a detailed analysis on the Committee on Public Counsel Oversight.*

Office of Legislative Services

Section 11.147, F.S., creates the Office of Legislative Services (OLS) to provide support services that are determined by the presiding officers of each house to be necessary and that can be effectively and efficiently provided jointly to both.

The bill amends the statute to clarify that the OLS is established by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives. It also deletes the provision authorizing the presiding officers of each house to select a coordinator for the OLS. These provisions are superseded by Joint Rule. *Please see HCR 7015 and the corresponding bill analysis for a detailed analysis on the Office of Legislative Services.*

Legislative Auditing Committee

Section 11.40, F.S. creates the Legislative Auditing Committee, comprised of members of the Senate and House of Representatives which is authorized to take under investigation any matter within the scope of an audit, review, or examination conducted by the Auditor General or OPPAGA.

The bill amends s. 1.01, F.S. to provide that the term “Legislative Auditing Committee” means a committee or committees designated by joint rule of the Legislature, by the President of the Senate or the Speaker of the House, or by agreement between the President of the Senate and Speaker of the House of Representatives. As such, it deletes provisions relating to the creation, composition and membership of the committee and the authorization to direct the Auditor General or OPPAGA to conduct an audit, review, or examination of certain entities. These

provisions are superseded by Joint Rule. *Please see HCR 7015 and the corresponding bill analysis for a detailed analysis on the Legislative Auditing Committee.* It also deletes the requirement that the committee provide oversight and management of the Transparency Florida Act website which provides information relating to each appropriation in the General Appropriations Act for each branch of state government and state agency.²

Office of Economic and Demographic Research

The Office of Economic and Demographic Research (EDR) is referenced in several sections of statute but its duties are not set forth in statute. As proposed by HCR 7015, Joint Rule 3.1(6) directs EDR to provide research support services, principally regarding forecasting economic and social trends that affect policymaking, revenues and appropriations to the Legislature.

The bill amends s. 1.01, F.S. to provide that the term "Office of Economic and Demographic Research" means an entity designated by joint rule of the Legislature or by agreement between the President of the Senate and Speaker of the House of Representatives.

Committee on Intergovernmental Relations

Section 11.70, F.S. creates the "Legislative Committee on Intergovernmental Relations Act" and provides that it is "the purpose of this section to improve coordination and cooperation among state government and local governments, other states, and the Federal Government through the establishment of a Florida Legislative Committee on Intergovernmental Relations." The section creates the committee, sets forth its composition and duties and provides for an executive director and staff.

The bill repeals section 11.70, F.S. and removes references to the Committee on Intergovernmental Relations found in sections 29.0085, 112.313, 112.324, 163.055, 163.3245 and 287.0943, F.S. and when appropriate, replaces them with references to the President of the Senate and the Speaker of the House of Representatives. Also, it removes references to the Committee on Intergovernmental Relations found in ss. 166.021 and 125.045, F.S. and when appropriate, replaces them with references to the Office of Economic and Demographic Research and to the President of the Senate and the Speaker of the House of Representatives.

Joint Legislative Committee on Everglades Oversight

Section 11.80, F.S. creates the Joint Legislative Committee on Everglades Oversight to monitor the implementation of the Everglades Forever Act. This section provides that the joint committee shall be responsible for monitoring all funding and expenditures, agreements, schedules of projects, land acquisition, and plans for acquisition, permits, and permit modifications associated with the implementation of the Everglades Forever Act.

The South Florida Water Management District (SFWMD) is required to give notice to the Joint Legislative Committee on Everglades Oversight of any plan, or modification of such plan, developed by the district for implementation of the Everglades Forever Act, or of any associated permit, permit modification, agreement, agreement modification, land acquisition, or land acquisition plan to which the district is a party.

² See Section 215.985, F.S.

The bill repeals s. 11.80, F.S. and makes conforming changes to s. 373.026, F.S. to require the SFWMD give notice to the presiding officers of each house.

Governmental Accountability Act

Sections 11.901 – 11.920, F.S. are titled the Florida Governmental Accountability Act. The act was created in 2006.³ Section 11.903, F.S. creates the Joint Legislative Sunset Committee, comprised of members of the Senate and House of Representatives. Section 11.905, F.S. sets forth a schedule of agency reviews that the committee is required to conduct. The committee is required to make a report to the Legislature that contains recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees. The Legislature can then reenact, abolish or reorganize the agency under review.

The bill repeals sections 11.901 – 11.920, F.S. and makes conforming changes to s. 288.7001, F.S.

Century Commission for a Sustainable Florida

Section 163.3247, F.S. creates the Century Commission for a Sustainable Florida and provides that Commission is created as “a standing body to help the citizens of this state envision and plan their collective future with an eye towards both 25-year and 50-year horizons.”

Section 163.3247(4)(g), F.S., directs that, “beginning with the 2007 Regular Session of the Legislature, the President of the Senate and the Speaker of the House of Representatives shall create a joint select committee, the task of which shall be to review the findings and recommendations of the Century Commission for a Sustainable Florida for potential action.”

The bill repeals s. 163.3247(4)(g), F.S.

Technology Review Workgroup

Section 216.0446, F.S. creates the Technology Review Workgroup (TRW) within the Legislature.⁴ According to this section, the workgroup is required to “review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information technology resources needs and with respect to agencies' legislative budget requests for information technology and related resources.”

Section 282.322, F.S. sets forth a special monitoring process for certain information resources management projects and requires the TRW to contract with the project monitor when required in the General Appropriations Act. Further, section 216.163(2)(f), F.S., requires that the Governor’s recommended budget include recommendations for high-risk information technology projects which should be subject to monitoring.

Section 216.181, F.S. provides that the TRW is also required to review and make recommendations to the Legislative Budget Commission (LBC) on proposed budget amendments and agency transfers associated with information technology initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, that exceed \$500,000 in total cost over a 1-year period, or that are requested by the Legislative

³ Ch. 2006-146, L.O.F.

⁴ This section of statute was created in 1997. s. 5, ch. 97-286.

Budget Commission to be reviewed. The bill removes this requirement that TRW review and make recommendations to the LBC and instead makes the amendment subject to approval by the LBC.

The bill repeals ss. 282.322, 216.163(2)(f) and 216.0446, F.S.

Legislative Commission on Migrant and Seasonal Labor

Section 450.201, F.S. creates the Legislative Commission on Migrant and Seasonal Labor, comprised of members of the Legislature. Section 450.221, F.S. sets forth the duties of the commission and provides that it is intended to “develop plans relative to particular migrant programs, and ultimately a comprehensive plan, which will permit the operation in this state, and cooperatively in participating states, of concerted action on problems relating to migrant labor, with the ultimate purpose of improving the conditions for migrant labor and of the reduction of problems relating thereto.”

The commission was created in 1970.⁵ During the 2004 session, s. 450.201, F.S. was amended to require appointments to be made to the commission no later than March 1, 2005 and a meeting of the commission to occur no later than July 1, 2005.⁶ In February 2006, the commission issued a report and has not met or issued any further reports since that date.⁷

The bill repeals sections 450.201-450.241, F.S. and makes corresponding changes to s. 450.261, F.S.

Council for Education Policy Research and Improvement

Section 1000.01, F.S. creates the Council for Education Policy Research and Improvement within the Office of Legislative Services. This section provides that all personnel, unexpended balances of appropriations and allocations of the Postsecondary Education Planning Commission are transferred to this council.

The bill removes these provisions from s. 1000.01, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁵ See Section 1, ch. 70-131.

⁶ See Section 8, ch. 2004-64.

⁷ http://www.leg.state.fl.us/data/committees/joint/Jcml/Report_To_The_Legislature.pdf

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Some of the changes made in this bill conform to funding decisions made in the 2010-2011 GAA. Implementation of provisions may result in a positive fiscal impact which is indeterminate at this time.