



174152

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment to Amendment (590742)

Delete lines 243 - 368
and insert:

Section 3. The Legislature intends that the amendments made by this act to ss. 20.02, 20.03, and 20.05, Florida Statutes, which apply to the organizational structure of the executive branch, and the creation of s. 120.515, Florida Statutes, which applies to administrative procedure, are to clarify that the placement of an executive department under the direct administration of an officer or board appointed by and serving at the pleasure of the Governor does not implicitly limit or restrict the Governor's prerogative, legal authority, and



174152

14 constitutional responsibility to direct and supervise the
15 execution of the law and the exercise of lawful discretion.

16 Section 4. Subsections (3) through (7) of section 20.02,
17 Florida Statutes, are renumbered as subsections (4) through (8),
18 respectively, and a new subsection (3) is added to that section
19 to read:

20 20.02 Declaration of policy.—

21 (3) The administration of any executive branch department
22 or entity placed under the direct supervision of an officer or
23 board appointed by and serving at the pleasure of the Governor
24 shall remain at all times under the constitutional executive
25 authority of the Governor, in accordance with ss. 1(a) and 6,
26 Art. IV of the State Constitution and such officer or board
27 generally remains subject to oversight, direction, and
28 supervision by the Governor.

29 Section 5. Subsections (4) and (5) of section 20.03,
30 Florida Statutes, are amended, and subsection (13) is added to
31 that section, to read:

32 20.03 Definitions.—To provide uniform nomenclature
33 throughout the structure of the executive branch, the following
34 definitions apply:

35 (4) "Head of the department" means the individual under
36 whom or the board under which direct administration ~~in charge~~ of
37 the department is placed by statute. Where direct administration
38 of a department is placed under an officer or board appointed by
39 and serving at the pleasure of the Governor, that officer or
40 board remains subject to the Governor's supervision and
41 direction.

42 (5) "Secretary" means an individual who is appointed by the



174152

43 Governor to head a department and who is not otherwise named in
44 the State Constitution.

45 (13) "To serve at the pleasure" means the appointee serves
46 in the office until removed by the appointing authority.
47 Consistent with the allotment of executive authority under ss. 1
48 and 6, Art. IV of the State Constitution, an appointee serving
49 at the pleasure of the appointing authority generally remains
50 subject to the direction and supervision of the appointing
51 authority.

52 Section 6. Subsection (1) of section 20.05, Florida
53 Statutes, is amended to read:

54 20.05 Heads of departments; powers and duties.—

55 (1) Each head of a department, subject to the allotment of
56 executive power under Art. IV of the State Constitution, and
57 except as otherwise provided by law, must:

58 (a) Plan, direct, coordinate, and execute the powers,
59 duties, and functions vested in that department or vested in a
60 division, bureau, or section of that department; powers and
61 duties assigned or transferred to a division, bureau, or section
62 of the department must not be construed to limit this authority
63 and this responsibility;

64 (b) Have authority, without being relieved of
65 responsibility, to execute any of the powers, duties, and
66 functions vested in the department or in any administrative unit
67 thereof through administrative units and through assistants and
68 deputies designated by the head of the department from time to
69 time, unless the head of the department is explicitly required
70 by law to perform the same without delegation;

71 (c) Compile annually a comprehensive program budget



174152

72 reporting all program and fiscal matters related to the
73 operation of his or her department, including each program,
74 subprogram, and activity, and other matters as required by law;

75 (d) Reimburse the members of advisory bodies, commissions,
76 and boards of trustees for their actual and necessary expenses
77 incurred in the performance of their duties in accordance with
78 s. 112.061;

79 (e) Subject to the requirements of chapter 120, exercise
80 existing authority to adopt rules pursuant and limited to the
81 powers, duties, and functions transferred to the department;

82 (f) Exercise authority on behalf of the department to
83 accept gifts, grants, bequests, loans, and endowments for
84 purposes consistent with the powers, duties, and functions of
85 the department. All such funds must be deposited in the State
86 Treasury and appropriated by the Legislature for the purposes
87 for which they were received by the department;

88 (g) If a department is under the direct supervision of a
89 board, including a board consisting of the Governor and Cabinet,
90 however designated, employ an executive director to serve at its
91 pleasure; and

92 (h) Make recommendations concerning more effective internal
93 structuring of the department to the Legislature. Unless
94 otherwise required by law, such recommendations must be provided
95 to the Legislature at least 30 days before the first day of the
96 regular session at which they are to be considered, when
97 practicable.

98 Section 7. Section 120.515, Florida Statutes, is created to
99 read:

100 120.515 Declaration of policy.—This chapter provides



174152

101 uniform procedures for the exercise of specified authority. This
102 chapter does not limit or impinge upon the assignment of
103 executive power under Art. IV of the State Constitution or the
104 legal authority of an appointing authority to direct and
105 supervise those appointees serving at the pleasure of the
106 appointing authority. For purposes of this chapter, adherence to
107 the direction and supervision of an appointing authority does
108 not constitute delegation or transfer of statutory authority
109 assigned to the appointee.

110 Section 8. Subsection (3) of section 120.52, Florida
111 Statutes, is amended to read:

112 120.52 Definitions.—As used in this act:

113 (3) "Agency head" means the person or collegial body in a
114 department or other governmental unit statutorily responsible
115 for final agency action. An agency head appointed by and serving
116 at the pleasure of an appointing authority remains subject to
117 the direction and supervision of the appointing authority, but
118 actions taken by the agency head as authorized by statute are
119 official acts.