

**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.)

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Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

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BILL: SB 2086

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State Agencies

DATE: January 29, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Seay	Roberts	GO	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

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**I. Summary:**

This bill is the result of the Governor’s office review of boards, councils, and commissions. The results of the review offered that several boards, councils, and commissions have been inactive for several years with no active appointees, fulfilled their statutory duties, or have duplicative responsibilities with another office’s duties. This bill repeals several entities that have been targeted for repeal as a result of the review.

This bill repeals sections 110.123(13), 258.155, 288.7001, 288.7002, 339.64(5), 381.90, 624.916, and 1004.63 of the Florida Statutes.

This bill substantially amends sections 120.54 and 120.745 of the Florida Statutes.

**II. Present Situation:**

**Florida Institute of Nuclear Detection and Security Board of Advisors**

The 2004 Legislature passed legislation creating the Florida Institute of Nuclear Detection and Security (FINDS) and its board of advisors.<sup>1</sup> FINDS’ primary objective is to serve as “a design-basis center for research, development, testing, and engineering projects that directly address and satisfy critical nuclear detection and security needs facing the state and nation.”<sup>2</sup> The board of advisors is composed of eight members who serve without compensation.<sup>3</sup> The statute also

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<sup>1</sup> Section 2, ch. 2004-261, L.O.F.

<sup>2</sup> *Id.*

<sup>3</sup> Section 1004.63(6)(a), F.S.

requires FINDS to submit an annual report on its progress, with recommendations on nuclear security and detection, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.<sup>4</sup>

The board is organized at the University of Florida. The professors who were responsible for overseeing FINDS and its annual report have left the University for positions at out-of-state institutions. As a result, the institute is not presently functioning at the University of Florida. Additionally, no annual report was ever submitted to the Governor's Office, nor has any Governor appointed members to the board since 2004. The University of Florida has indicated that there are no professors or staff supporting the institute or plans for any meetings or production of an annual report.

### **Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council**

The Gamble Plantation Historic State Park is located in Ellenton in Manatee County.<sup>5</sup> The state park is widely believed to be the site where the Confederate Secretary of State, Judah P. Benjamin, sought refuge until he could flee to Europe.<sup>6</sup> In 1925, the Daughters of the Confederacy donated the plantation and surrounding land to the State.<sup>7</sup> In 1980, the Legislature created the advisory council for the Judah P. Benjamin Memorial at Gamble Plantation State Park.<sup>8</sup> That advisory role has since been taken over by the Gamble Plantation Preserve Alliance, a Citizen Support Organization registered with the Department of Environmental Protection's Division of Parks and Recreation.<sup>9</sup>

### **Florida State Employee Wellness Council**

The Florida State Employee Wellness Council was created by legislation passed during the 2006 legislative session.<sup>10</sup> The council was created to advise the Department of Management Services (DMS) on providing health education information to state employees and to assist DMS in developing minimum benefits for all health care providers when providing age- and gender-based wellness benefits.<sup>11</sup>

The Department of Management Services has stated that this council has not been active for several years.<sup>12</sup> The council's last recorded meeting occurred in June 2008 and the last members appointed to the council termed out in December 2010. No new appointments have been made to the council. The Office of Program Policy Analysis and Government Accountability (OPPAGA) has previously recommended abolishing the council as it did not appear to be fulfilling its

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<sup>4</sup> Section 1004.63(8), F.S.

<sup>5</sup> Gamble Plantation Historic State Park, <http://www.floridastateparks.org/gambleplantation/> (last visited Jan. 18, 2012).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Sections 1-2, ch. 80-536, L.O.F.

<sup>9</sup> The Florida Department of Environmental Protection Division of Parks and Recreation has indicated that it is unopposed to the repeal of s. 258.155, F.S. More information about Citizen Support Organizations within the Division of Parks and Recreation is available at <http://www.floridastateparks.org/getinvolved/friendsgroups.cfm> (last visited Jan. 18, 2012).

<sup>10</sup> Section 9, ch. 2006-269, L.O.F.

<sup>11</sup> *Id.*

<sup>12</sup> E-mail correspondence with Stephanie Leeds, Legislative Affairs Director, Department of Management Services (Dec. 14, 2011) (on file with the Senate Committee on Governmental Oversight and Accountability).

statutory mission and because council duties related to wellness programs had been assigned to other state entities.<sup>13</sup>

### **Developmental Disabilities Compact Workgroup**

The Developmental Disabilities Compact Workgroup was created by the “Window of Opportunity Act” passed during the 2008 legislative session.<sup>14</sup> Workgroup members are composed of representatives of all health insurers licensed under Ch. 624, F.S.; representatives of all licensed health maintenance organizations (HMOs); representatives of employers with self-insured health benefit plans; two designees of the Governor; a designee of the Senate President; and a designee of the Speaker of the House of Representatives.<sup>15</sup> The workgroup was tasked with negotiating a compact that includes a binding agreement among the participants relating to insurance and access to services for persons with developmental disabilities.<sup>16</sup> The statute directed the Office of Insurance Regulation to convene the workgroup by August 31, 2008 to provide a forum to comment on the negotiated compact.<sup>17</sup>

The health insurance providers that were subject to this provision had the option of either entering the compact or offering a mandate that would achieve the same goals. All but one company opted for the mandate, and the compact was dissolved in late 2008. The workgroup has been inactive since that time.<sup>18</sup>

### **Health Information Systems Council**

The Health Information Systems Council was created by the Information Resource Management Reform Act passed during the 1997 legislative session.<sup>19</sup> The Council’s primary duty is “to facilitate the identification, collection, standardization, sharing, and coordination of health-related data, including fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities.”<sup>20</sup> The Florida Department of Health reports that the council has been inactive and not funded since 2003.<sup>21</sup>

### **Small Business Regulatory Advisory Council**

The Small Business Regulatory Advisory Council (SBRAC) was created by the Small Business Regulatory Relief Act passed during the 2008 legislative session.<sup>22</sup> The council’s primary duties include providing state agencies with input regarding proposed rules or programs that may

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<sup>13</sup> Department of Management Services Advisory Committees Assessment, Office of Program Policy Analysis and Government Accountability (OPPAGA), Dec. 2008, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/08-S11.pdf>.

<sup>14</sup> Section 2, ch. 2008-30, L.O.F.

<sup>15</sup> Section 624.916(2), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> The Office of Insurance Regulation has indicated that it is unopposed to the repeal of s. 624.916(2), F.S.

<sup>19</sup> Section 27, ch. 97-286, L.O.F.

<sup>20</sup> Section 381.90(2), F.S.

<sup>21</sup> E-mail correspondence with Leonard Zeiler, Legislative Affairs Director, Florida Department of Health (Jan. 4, 2012) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>22</sup> Section 2, ch. 2008-149, L.O.F.

adversely affect small business; considering requests from small business owners to review rules or programs adopted by an agency; reviewing rules promulgated by an agency to determine whether a rule places an unnecessary burden on small business or affects their private property rights and make recommendations to the agency to mitigate the adverse effects; and reviewing agency rules in conjunction with the agency sunset review process.<sup>23</sup> The council's membership is composed of nine members who are current or former small business owners, three appointed by the Governor, three appointed by the Senate President, and three appointed by the Speaker of the House of Representatives.<sup>24</sup>

Upon taking office, Governor Scott issued Executive Order 11-01 establishing the Office of Fiscal Accountability and Regulatory Reform (OFARR). OFARR was given specific duties pertaining to agency rulemaking – specifically ensuring that agency-created rules do not hinder government performance and that they are fiscally responsible. The Governor's office has indicated that SBRAC's rule review responsibilities are duplicative of the duties and activities of OFARR. Additionally, the office of the rules ombudsman within the Executive Office of the Governor shares many of the same statutory duties and responsibilities with SBRAC.<sup>25</sup> SBRAC was not funded in the current fiscal year.

### **Statewide Intermodal Transportation Advisory Council**

The 2003 Legislature created the Statewide Intermodal Transportation Advisory Council (SITAC) through passage of an omnibus transportation bill.<sup>26</sup> SITAC was created to advise and make recommendations to the Legislature and the Department of Transportation (DOT) on the policies, planning, and funding of intermodal transportation projects.<sup>27</sup>

SITAC assisted in developing the initial Strategic Intermodal System plan in 2005. The Strategic Intermodal System plan is developed by the DOT in conjunction with metropolitan planning organizations, regional planning councils, local governments, SITAC, and other transportation providers.<sup>28</sup> No further appointments to SITAC have been made since January 2005 and the council no longer officially convenes. Although SITAC has not officially convened since December 2004, the DOT has confirmed that all of the SITAC members' organizations continue to be involved in the ongoing planning and updating of the Strategic Intermodal System plan.

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

**Section 1** repeals s. 110.123(13), F.S., relating to the Florida State Employee Wellness Council.

**Section 2** repeals s. 258.155, F.S., relating to the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council.

**Section 3** repeals s. 288.7001, F.S., relating to the Small Business Regulatory Advisory Council.

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<sup>23</sup> Section 288.7001(3)(c), F.S.

<sup>24</sup> Section 288.7001(3)(a), F.S.

<sup>25</sup> See s. 288.7015, F.S.

<sup>26</sup> Section 49, ch. 2003-286, L.O.F.

<sup>27</sup> *Id.*

<sup>28</sup> Section 339.64(1), F.S.

**Section 4** repeals s. 288.7002, F.S., relating to the Office of the Small Business Advocate.

**Section 5** repeals s. 339.64(5), F.S., relating to the Statewide Intermodal Transportation Advisory Council.

**Section 6** repeals s. 381.90, F.S., relating to the Health Information Systems Council.

**Section 7** repeals s. 624.916, F.S., relating to the Developmental Disabilities Compact.

**Section 8** repeals s. 1004.63, F.S., relating to the Florida Institute of Nuclear Detection and Security.

**Section 9** amends s. 120.54, F.S., replacing references to the Small Business Regulatory Advisory Council with the rules ombudsman in the Executive Office of the Governor; requiring the rules ombudsman to assume certain duties formerly performed by the Small Business Regulatory Advisory Council; and deleting a requirement that the Office of Program Policy Analysis and Government Accountability (OPPAGA) conduct a study and issue a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the impact on small business of certain proposed agency rules that have been rejected.

**Section 10** amends s. 120.745, F.S., replacing references to the Small Business Regulatory Advisory Council with the rules ombudsman in the Executive Office of the Governor; and requiring the rules ombudsman to assume certain duties formerly performed by the Small Business Regulatory Advisory Council.

**Section 11** provides an effective date of July 1, 2012.

#### **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:**

Senate Bill 1872 creates new duties for the Small Business Regulatory Advisory Council (SBRAC). This bill repeals SBRAC from statute. One or both bills need to be amended in order to address this conflict.

**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.