

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.)

Prepared By: The Professional Staff of the Budget Committee

BILL: SPB 7102

INTRODUCER: Senate Budget Committee

SUBJECT: Department of Economic Opportunity

DATE: February 11, 2012 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Martin	Rhodes	BC	Pre-meeting
2.			
3.			
4.			
5.			
6.			

I. Summary:

This bill:

- Requires all funds expended by the Florida Housing Finance Corporation (FHFC) to be first deposited into the state treasury and then appropriated in the General Appropriations Act, except for the federal Hardest Hit Fund receipts and the Florida Affordable Housing Guarantee Program earnings and recoveries.
- Allows amounts received by the FHFC as program repayments from loan programs funded by state moneys to be used to support the Florida Affordable Housing Guarantee Program.
- Provides that no further loan guarantees may be issued by the FHFC beginning July 1, 2012.
- Provides that the FHFC shall be a state agency and instrumentality, effective July 1, 2013, rather than a public corporation.
- Provides that a participant in an adult or youth work experience activity administered pursuant to ch. 445, Laws of Florida, workforce programs shall be deemed an employee of the state for purposes of workers' compensation coverage.
- Repeals the future expiration of an amendment to s. 163.3247(3), F.S., which amendment eliminated the travel and per diem reimbursement for members of the Century Commission.
- Repeals the future expiration of an amendment to s. 201.15(1)(c)2., F.S., which amendment eliminated the distribution of documentary stamp tax revenues to the Century Commission.
- Eliminates the Ready to Work program in statute and removes references to the program from the skills assessment requirements of the Unemployment Compensation Program, and from the requirements for a designation on high school diplomas.

- Provides that certain sales and use taxes collected at the Kennedy Space Center or at the Cape Canaveral Air Force Station shall be distributed to the Florida Institute of Technology for the purpose of operating a space exploration research institute.

This bill substantially amends the following sections of the Florida Statutes: 420.0005, 420.504, 420.507, 420.508, 420.5087, 420.5088, 420.5089, 420.5091, 420.5092, 420.525, 420.526, 420.529, 420.9079, 443.036, 445.009, and 1003.4285. This bill repeals s. 445.06, F.S., s. 49 of ch. 2011-47, Laws of Florida, and s. 51 of s. 2011-47, Laws of Florida.

II. Present Situation:

Florida Housing Finance Corporation

The Florida Housing Finance Corporation¹ is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida. It was created in 1997, when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Economic Opportunity (DEO), but is a separate budget entity not subject to the control, supervision, or direction of the DEO. Instead, it is governed by a nine member board of directors comprised of the Secretary of DEO, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The FHFC operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;²
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The HOME Investment Partnership Program, which provides low-interest loans from federal funds to developers to finance construction and rehabilitation of homes and rental program;
- The Predevelopment Loan Program, which assists nonprofit and community based organizations, local governments and public housing authorities by providing loans of up to \$750,000 for predevelopment activities; and

¹ Formerly the Florida Housing Finance Agency.

² Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. See s. 420.507(22), F.S.

- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing.

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.³ Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the FHFC's programs directly from the Federal Government.⁴

Legislative Budget Commission

The Legislative Budget Commission (Commission) is created in Article 3, section 19 of the Florida Constitution, s. 11.90, F.S., and the Joint Rules of the Florida Legislature. Although the Legislature has the constitutional duty to appropriate the moneys in the state treasury, it has recognized the need for modifications to the budget during the interim between legislative sessions. To this end, the Constitution delegates authority to the Commission to oversee certain aspects of the implementation of the approved budget for the State of Florida. The Commission is empowered in ch. 216, F.S., to ratify certain adjustments to the budget as recommended by the Governor or the Chief Justice of the Supreme Court without the concurrence of the full legislature.⁵ The Commission is also charged with developing the long-range financial outlook described in Article 3, section 19, of the Florida Constitution, and with reviewing proposed information technology-related budget amendments in specified instances.⁶

The Commission is comprised of 14 legislative members: seven members of the House of Representatives appointed by the Speaker of the House of Representatives and seven members of the Senate appointed by the President of the Senate. From November of each odd numbered year through October of each even-numbered year, the Senate chairs the Commission and the House is the vice chair. From November of each even-numbered year through October of each odd-numbered year, the House chairs the Commission and the Senate is vice chair.⁷ The Commission may also take other actions related to the fiscal matters of the state, as authorized by law.⁸

In addition, the Chair and Vice Chair of the Commission, on behalf of the Legislature, may object to any agency action that exceeds the authority delegated to the executive or judicial branches, or is contrary to legislative policy and intent, regardless of whether that action is subject to legislative consultation or Commission approval.⁹

Century Commission for a Sustainable Florida (Century Commission)

The Century Commission was created in 2005 as a standing body charged with helping the state envision and plan for the future using a 25-year and a 50-year planning horizon.¹⁰ The Century

³ Sections 201.15(9) and (10), F.S.

⁴ See ss. 420.507(33) and 159.608, F.S.

⁵ Section 216.181(2), F.S.

⁶ Section 11.90, F.S.

⁷ *Id.*

⁸ *Id.*

⁹ Section 216.177(2)(b), F.S.

Commission must submit an annual report containing specific recommendations for addressing growth management in the state. The report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, must also contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection with future development, as well as recommendations regarding dedicated funding sources for sewer facilities, water supply and quality, transportation facilities, and educational infrastructure.

The Century Commission consists of 15 members representing local governments, school boards, developers, homebuilders, the business, agriculture, environmental communities and other appropriate stakeholders. The Governor, President of the Senate, and Speaker of the House of Representatives each receive five appointments to the commission. The commissioners serve without compensation, but, with the exceptions of FY 2010-11 and FY 2011-12 may receive reimbursement for per diem and travel expenses while in performance of their duties. Meetings of the commission are held at least three times a year in different regions of the state to collect public input and the DEO provides staff and other resources necessary for the Century Commission to accomplish its goals.

In recent years, the commission has operated primarily on private funding. Prior to July 1, 2009, s. 201.15(1) (c), F.S., provided that the Century Commission would receive an annual distribution from the documentary stamp tax of \$260,000 to fund its operations. The General Appropriations Act Implementing Bill for both FY 2010-11 and FY 2011-12 provided that, for those years only, the Century Commission would not receive the tax distribution under s. 201.15(1)(c), and that the members would not be entitled to reimbursements for travel and per diem expenses while in the performance of their duties.¹¹

The 2011 Florida Legislature repealed the Century Commission's authorizing statute¹² and abolished the Century Commission, effective June 30, 2013.¹³

Workers Compensation Coverage

The Welfare Transition Program, the Food Stamp Employment and Training Program, and the Workforce Investment Act Program provide work experience for adult and youth participants.

In the Welfare Transition Program, participants engage in work experience as a condition for their continued receipt of cash assistance under the federal Temporary Assistance for Needy Families (TANF) Program. In the Food Stamp Employment and Training Program, certain participants are required to engage in work experience as a condition for their continued receipt of food stamp benefits. In the Workforce Investment Act Program, work experience is an activity that is primarily used for youth who have had limited exposure to the world of work.

Federal law requires that participants in a federally funded work experience activity must be covered either under the state workers' compensation law or comparable insurance coverage

¹⁰ Section 11, Chapter 2005-290, Laws of Florida.

¹¹ Sections 41-44 of Chapter 2010-153, and sections 48-51, Chapter 2011-47, Laws of Florida.

¹² Section 163.3247, F.S.

¹³ Section 31 of Chapter 2011-139, Laws of Florida.

must be secured. The cost for any workers' compensation coverage provided under this proposal would be paid for by the applicable federal grant program. The overall cost would be lower if all participants were covered under the state's plan rather than each regional workforce board and each individual service provider having to negotiate separate insurance coverage for their participants.

Section 445.009(11), F.S., allows a participant in an adult or youth work experience activity to be deemed an employee of the state for purposes of workers' compensation coverage.¹⁴ This subsection of statute is set to expire on June 30, 2012.

Ready to Work Certificate Program

The 2006 Florida Legislature created the Florida Ready to Work Certificate Program¹⁵ to enhance the workplace skills of Florida's students to better prepare them for successful employment in specific occupations. A student who earns a Ready to Work Credential (credential) will be considered equipped with the skills to enter the workforce. Any Florida student or resident is eligible to earn the credential. Prior to FY 2011-12, the program was administered by the Florida Department of Education (DOE), Division of Workforce Education, in cooperation with Worldwide Interactive Network (WIN) and the nationally recognized ACT® WorkKeys program. WIN provides the online WIN for WorkKeys® pre-assessment and skills training courseware, career database and other program support. ACT WorkKeys® provides the proctored assessment and career readiness certification. A credential is awarded to a student who successfully passes 3 WorkKeys assessments in Reading for Information, Applied Mathematics, and Locating Information. The assessments are offered online but must be proctored and taken at a certified Florida Ready to Work testing center. Each assessment is scored on a scale from 3 to 7. Higher scores indicate participants' greater ability to perform more complex skills. The three levels of the credential are:

- Bronze – minimum score of 3 or more on all assessments
- Silver – minimum score of 4 or more on all assessments
- Gold - minimum score of 5 or more on all assessments

The credential demonstrates to current and future employers that students have the skills to meet employment expectations.

The 2008 Florida Legislature provided¹⁶ that by the 2008-2009 school year, each standard high school diploma shall include, as applicable, a designation reflecting a Florida Ready to Work Credential.¹⁷

The 2011 Florida Legislature transferred the Ready to Work Certificate Program from the DOE to the newly created DEO.¹⁸ In separate legislation, the 2011 Florida Legislature also required that, as a condition of unemployment benefit eligibility, claimants must participate in an initial

¹⁴ Section 47, ch. 2011-147, Laws of Florida, amended this provision in order to implement Specific Appropriation 2008 of the 2011-2012 General Appropriations Act.

¹⁵ Section 35, Chapter 2006-74, Laws of Florida.

¹⁶ Section 8 of Chapter 2008-235, Laws of Florida.

¹⁷ Section 1003.4285, F.S.

¹⁸ Section 5 of Chapter 2011-142, Laws of Florida. Also, s. 476 of Chapter 2011-142, Laws of Florida, renumbered s. 1004.99, F.S., as s. 445.06, F.S.

skills review as directed by the agency.¹⁹ The new term “initial skills review” was defined as “...an online education or training program, such as that established under s. 1004.99, that is approved by the Agency for Workforce Innovation and designed to measure an individual’s mastery level of workplace skills.”²⁰ To participate, individuals must first go to a local assessment center to sign up for the program. Once signed up, an individual may take the initial skills review at the assessment center or online at any location with Internet access. The assessment measures general skills necessary for 90 percent of all jobs in 3 areas: locating information, reading, and applied math. All the questions are based on workplace scenarios. After taking the initial skills review, an individual may take additional course material to try to improve his or her skills. An individual who completes the entire program may receive a Florida Ready to Work Credential to use as a tool when applying for jobs. This program is provided to Floridians at no cost. The administrator or operator of the online education or training program is required to report to DEO that the individual has taken the initial skills test for benefit eligibility purposes, and to the regional workforce board or One-Stop Career Center the results of the initial skills test for purposes of reemployment services. The regional workforce board is required to develop a plan to use the initial skills review to refer individuals training and employment opportunities.

DEO has contracted with Worldwide Interactive Network (WIN), the contractor for Florida Ready to Work, to provide the initial skills review required by the unemployment statute. The Florida Ready to Work initial skills review is integrated into the process of applying for benefits to provide a streamlined process.

Funding for the Ready to Work Certificate Program was provided to the DOE in the FY 2011-12 General Appropriations Act.²¹ Three million dollars was provided from General Revenue Fund and \$2 million from Workers’ Compensation Administration Trust Fund. Of these funds, \$2.3 million from General Revenue Fund was provided from recurring funds, and the remainder of both funds was provided from nonrecurring funds.

Sales and Use Taxes

Section 212.04, F.S., levies a 6 percent tax on the privilege of selling or receiving anything of value by way of admissions. Section 212.05, F.S., levies a 6 percent sales tax on the sale of tangible personal property. Proceeds of these taxes are distributed to the Local Government Half-cent Sales Tax Clearing Trust Fund, to fiscally Constrained Counties, to the County Revenue Sharing trust fund, to the Municipal Revenue Sharing trust fund, to the County Distribution of \$29,915,500 in even shares, to facilities for professional sports franchises, and to the Professional Golf Hall of Fame and the International Game Fish Association World Center. After these distributions, the remainder of taxes remitted is distributed to the General Revenue Fund.

¹⁹ Section 4, Chapter 2011-235, Laws of Florida. (amendment to s. 443.091(1)(c), F.S.)

²⁰ Section 3, Chapter 2011-235, Laws of Florida. (amendment to s. 443.036(26), F.S.) The reference to “...such as that established under s. 1004.99...” is the former Ready to Work Certificate Program statute (now s. 445.06, F.S.).

²¹ Specific Appropriation 98 of Chapter 2011-69, Laws of Florida.

III. Effect of Proposed Changes:

Section 1 repeals s. 49 of chapter 2011-47, Laws of Florida, thereby abrogating the future expiration of an amendment to s. 163.3247(3), F.S., which amendment eliminated the travel and per diem reimbursement for members of the Century Commission.

Section 2 repeals s. 51 of chapter 2011-47, Laws of Florida, thereby abrogating the future expiration of an amendment to s. 201.15(1)(c)2., F.S., which amendment eliminated the distribution of documentary stamp tax revenues to the Century Commission.

Section 3 amends s. 420.0005, F.S., to require certain monies to be deposited into the State Housing Trust Fund within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature. This section also requires amounts held by the FHFC in the State Housing Fund in excess of amounts appropriated for the current fiscal year which are not contractually obligated to be deposited with the State Treasury to the credit of the State Housing Trust Fund. An exception is provided for the federal Hardest Hit Fund receipts.

Section 4 amends s. 420.504, F.S., to create the FHFC as a state entity and instrumentality within the DEO, rather than as a public corporation.

Section 5 amends s. 420.507, F.S., to require certain federal monies to be deposited into the Federal Grants Trust Fund and subjecting the expenditures of such funds to appropriation by the Legislature. This section also deletes provisions that exempt the FHFC from certain state budget request requirements and that allow it to retain unused operational expenditures.

Section 6 amends s. 420.508, F.S., to require certain monies to be deposited into the State Housing Trust Fund or the Federal Grants Trust Fund, as appropriate, within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature.

Section 7 amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program, to require loan repayments, proceeds and certain funds to be accounted for by the FHFC and deposited into the State Housing Trust Fund. This section also requires expenditures from the SAIL fund to be subject to appropriation by the Legislature and authorizes the FHFC to seek budget amendments in order to use certain funds subject to approval by the Legislative Budget Commission. This section deletes provisions that authorize the FHFC to retain unused operational expenditures.

Section 8 amends s. 420.5088, F.S., relating to the Florida Homeownership Assistance Program, to require the FHFC to account for certain monies to be deposited into the State Housing Trust Fund. This section also requires expenditures from the Florida Homeownership Assistance Program to be subject to appropriation by the Legislature. This section also deletes provisions that exempt the FHFC from certain state budgetary requirements and that allow them to retain unused operational expenditures.

Section 9 amends s. 420.5089, F.S., relating to the HOME Investment Partnership Program, to require the FHFC to account for certain monies and to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the FHFC from certain state budgetary

requirements and that allow it to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

Section 10 amends s. 420.5091, F.S., relating to the HOPE Program, to provide for the deposit of certain funds into the State Housing Trust Fund in the State Treasury.

Section 11 amends s. 420.5092, F.S., relating to the Florida Affordable Housing Guarantee Program, to authorize certain funds to be used in order support the Guarantee Program. It also provides that, beginning July 1, 2012, the FHFC may not issue new loan guarantees. A new provision is added that, notwithstanding s. 420.0005 or any other law to the contrary, all guarantee fund earnings, recoveries, and other funds received in conjunction with the guarantee fund pursuant to this section shall be deposited into the guarantee fund and are not subject to appropriation by the Legislature.

Section 12 amends s. 420.525, F.S., to relating to the Housing Predevelopment Fund, to require the FHFC to account for certain monies to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the FHFC from certain state budgetary requirements and that allow them to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

Section 13 amends s. 420.526, F.S., relating to the Predevelopment Loan Program, to require the FHFC to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

Section 14 amends s. 420.529, F.S., to require the FHFC to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

Section 15 amends s. 420.9079, F.S., to require all monies deposited into the Local Government Housing Trust Fund with the State Treasury to be appropriated by the Legislature and to require any interest received on any investments therein to be credited to the General Revenue Fund.

Section 16 amends s. 443.036, F.S., to remove from the Unemployment Compensation Program definition of “Initial Skills Review” the phrase “such as that established under s. 1004.99,” which is a reference to the Ready To Work Certificate Program. Also within that definition, the reference to the Agency for Workforce Innovation is replaced with the DEO to conform to the governmental reorganization effected by chapter 2011-142, Laws of Florida.

Section 17 amends s. 445.009, F.S., to remove the expiration date from a subsection which provides that a participant in a Workforce Services One-stop delivery system work experience program shall be deemed an employee of the state for purposes of worker’s compensation coverage.

Section 18 repeals s. 445.06, F.S., the Ready to Work Certificate Program.

Section 19 amends s. 1003.4285, F.S., to eliminate the requirement that a standard high school diploma include, as applicable, a designation reflecting a Florida Ready to Work Credential.

Section 20 directs the DEO to prepare draft legislation to conform the Florida Statutes to the provisions of this act, and to submit such draft legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before October 1, 2012.

Section 21 provides that the proceeds of taxes imposed under ss. 212.04 and 212.05, Florida Statutes, which are collected and remitted by a dealer that is contracted or subcontracted by the National Aeronautics and Space Administration to sell items subject to the tax under s. 212.04 or s. 212.05, Florida Statutes, at the Kennedy Space Center or at the Cape Canaveral Air Force Station and that conducts business at these facilities shall be distributed to the Florida Institute of Technology for the purpose of operating a space exploration research institute.

Section 22 provides that, except as otherwise expressly provided in this act, this act shall take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

All monies, as provided in this bill, that are required to be deposited into the State Housing Trust Fund and the Federal Grants Trust Fund will be subject to appropriation by the Legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None

B. Private Sector Impact:

The Florida Housing Finance Corporation will become a state entity, effective July 1, 2013, and will now be required to account for program funds and deposit all monies, with specified exceptions, into the State Housing Trust Fund or Federal Grants Trust fund, as appropriate, which shall be subject to appropriation by the Legislature.

The FHFC will also be required to obtain approval from the Legislative Budget Commission on all budget amendment requests.

The provisions of section 21 of the bill redirect sales taxes collected on admissions to and sales at the Kennedy Space Center or at the Cape Canaveral Air Force Station from the General Revenue Fund to the Florida Institute of Technology.

C. Government Sector Impact:

The Legislature will now have appropriations authority over all monies received by or expended by the Florida Housing Finance Corporation, with specified exceptions. This bill provides that the Legislative Budget Commission may approve budget amendment requests from the FHFC.

The Century Commission will not have its funding restored by operation of law (the expiration of an amendment to statute) as of July 1, 2012, and the commission members will not be authorized to be reimbursed for travel and per diem expenses after July 1, 2012.

The Ready to Work Certificate Program will no longer be created in statute. However, no changes are made to state agency funding for the program by this act.

The provisions of section 21 of the bill providing for the distribution of sales taxes collected at the Kennedy Space Center and the Cape Canaveral Air Force Station to the Florida Institute of Technology are expected to reduce the annual revenues to the General Revenue Fund by approximately \$5.5 million beginning in FY 2012-13 and thereafter.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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.