

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 Committee on Fiscal Policy

BILL: SB 556

INTRODUCER: Senator Altman

SUBJECT: Florida Commission on Poverty

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	Recommend: Fav/CS
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 556 establishes the Florida Commission on Poverty (commission) as an advisory board and assigns it to the Department of Economic Opportunity (DEO). The commission will advise the Governor and Cabinet, the Legislature, and appropriate state agencies and entities on matters relating to poverty. The commission must conduct a study and develop strategies to address the causes of poverty in Florida.

The bill provides for the appointment of five voting members: the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives each appoint one member and one member is from appointed from the Florida Association for Community Action, Inc. The Governor may appoint any number of non-voting members, who may concurrently hold public office, to the commission. The bill requires the Senate to confirm the voting members, and provides that members serve 4-year terms and may be reappointed. Commission members serve without compensation, but voting members are entitled to reimbursement for per diem and travel expenses. The commission must meet at least twice a year.

The commission is authorized to procure information and assistance from governmental entities, contract for necessary goods and services, and apply for an accept funds, grants, gifts, and services from public and private sources to defray clerical and administrative costs.

The commission must submit an annual report to the Governor, President of the Senate, and the Speaker of the House of Representatives. The report must contain an accounting of the commission's activities, and the commission's recommendations for legislative, administrative, or regulatory reforms to facilitate efforts to mitigate poverty in Florida.

The bill has an indeterminate, but expected to be minimal, negative fiscal impact to the DEO.

II. Present Situation:

The United States Census Bureau (bureau) tracks income and poverty in the United States. The bureau estimates that in 2014 there were 46.7 million Americans living in poverty, which equates to 14.8 percent of the country's population.¹ As of 2014, Florida had approximately 3.2 million persons living below the poverty line, with a poverty rate of 16.6 percent, and of Florida's 67 counties, 48 counties had poverty rates exceeding the national average.²

In order to reduce the number of persons living in poverty, some states have created statewide anti-poverty initiatives. The following are examples of such initiatives:

- The Legislative Commission to End Poverty in Minnesota by 2020 was created in 2006 to develop guidelines and prepare recommendations to end poverty.³
- The Speaker of the House of Representatives for Alabama created a poverty task force in September 2007 to identify and assess conditions that create or worsen poverty throughout Alabama and to develop and propose policy initiatives to reduce or eliminate those conditions.⁴
- The Illinois Commission on the Elimination of Poverty was established in 2008 to reduce extreme poverty in Illinois by 50 percent or more by 2015.⁵
- The Child Poverty Prevention Council for Louisiana was created in 2008 to pursue programs to reduce child poverty in the state by 50 percent over the following decade.⁶
- The Connecticut Legislature created a Child Poverty Council in 2004 to develop a 10-year plan to reduce the number of children living in poverty in Connecticut by 50 percent.⁷
- The Rhode Island Legislature created a legislative commission on family income and asset building in 2007 to conduct a comprehensive review of Rhode Island laws, policies, and activities that benefit those in poverty.⁸

¹ U.S. Census Bureau, Current Population Reports, P60-252, *Income and Poverty in the United States: 2014* (Sept. 2015), p. 12, available at <http://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-252.pdf> (last visited Feb. 23, 2016).

² United States Department of Agriculture, Economic Research Service, *County-level Poverty Data Sets*, available at <http://www.ers.usda.gov/data-products/county-level-data-sets/poverty.aspx> (last visited Feb. 23, 2016).

³ Minnesota Laws 2006, ch. 282, part. 2, s. 27, available at <https://www.revisor.mn.gov/laws/?year=2006&type=0&doctype=Chapter&id=282> (last visited Feb. 23, 2016).

⁴ Alabama House of Representatives, *Poverty Task Force Final Report* (2008), available at <http://www.clasp.org/documents/PTF-Final-Report.pdf> (last visited Feb. 23, 2016).

⁵ 20 ILL. COMP. STAT. 4080/10 (2008), available at <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2994&ChapterID=5> (last visited Feb. 23, 2016).

⁶ LA. REV. STAT. ANN. s. 46:2801 (2008), available at <http://legis.la.gov/Legis/Law.aspx?d=631413> (last visited Feb. 23, 2016).

⁷ CONN. GEN. STAT. s. 4-67x (2004). See NCSL, *State Child Welfare Legislation 2004*, available at <https://www.cga.ct.gov/2011/pub/chap050.htm#Sec4-67x.htm> (last visited Feb. 23, 2016).

⁸ 2007 RI H 6561 (2007) available at <http://webserver.rilin.state.ri.us/PublicLaws/law07/res07/res07404.htm> (last visited Feb. 23, 2016).

Advisory Bodies

Section 20.052, F.S., provides that an advisory body, commission, or board created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with certain requirements.

Such an advisory body may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose,⁹ and it must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of the public purpose.¹⁰ An advisory body may not be created unless:

- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;¹¹
- Its members are appointed for 4-year staggered terms; and
- Its members serve without additional compensation or honorarium, but may receive per diem and reimbursement for travel expenses.¹²

The private citizen members of an *advisory body* that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. The private citizen members of a *commission or board* that is adjunct to an executive agency must be appointed by the Governor unless otherwise provided, must be confirmed by the Senate, and must be subject to the dual-office-holding prohibition of Art. II, s. 5(a) of the Florida Constitution.¹³

III. Effect of Proposed Changes:

The bill establishes the Florida Commission on Poverty (commission) and assigns it to the DEO. The commission serves as an advisory board to the Governor and Cabinet, the Legislature, and appropriate state agencies and entities on matters relating to poverty.

The commission consists of 5 members who are confirmed by the Senate and appointed in the following manner:

- The Governor appoints one voting member;
- The Chief Financial Officer appoints one voting member;
- The President of the Senate appoints one voting member;
- The Speaker of the House of Representatives appoints one voting member; and
- One voting member from the Florida Association for Community Action, Inc.

⁹ Section 20.052(1), F.S.

¹⁰ Section 20.052(2), F.S.

¹¹ Section 20.03(7), F.S., defines “council” or “advisory council” as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.03(10), F.S., defines “commission” as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

¹² Section 20.052(4), F.S.

¹³ Section 20.052(5), F.S.

In addition, the Governor may appoint any number of nonvoting members to the commission who may concurrently hold public office with his or her term of service. All members of the commission must be Florida residents.

Commission members are appointed for 4-year terms, and may be reappointed for successive terms. A vacancy is filled for the remainder of the unexpired term in the same manner as the original appointment. The bill does not provide for staggered terms.

Members of the commission serve without compensation, but voting members are entitled to reimbursement for per diem and travel expenses. The commission must annually elect a chair, who must be a voting member, and a vice chair.

The commission must meet at least twice each year at the call of the chair or at the request of a majority of the commission's total voting membership. A majority of the total voting membership constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.

The commission must conduct a study and develop strategies to address the causes of poverty in Florida, and to solicit the participation of counties in the study. A county that wishes to participate must submit an application to the commission that outlines current issues relating to poverty in that county. The commission must develop procedures to approve or deny applications for participation.

The bill authorizes the commission to:

- Procure information and assistance from the state or any political subdivision, municipality, public officer, or governmental department or agency thereof;
- Contract for necessary goods and services; and
- Apply for and accept funds, grants, gifts, and services from any local government, state government, or the federal government, or an agency thereof, or any other public or private source for the purpose of defraying clerical and administrative costs as may be necessary to carry out its duties.

By January 15 each year, the commission is required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that provides an accounting of its activities and recommendations for legislative, administrative, and regulatory reforms to facilitate efforts in mitigating poverty in Florida.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article II, s. 5(a) of the Florida Constitution, provides in relevant part that “[n]o person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that . . . any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.” The exception to the prohibition on dual office-holding for statutory bodies that have only advisory powers would appear to apply to officers appointed to the commission created by the bill.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill authorizes the commission to accept funds, grants, gifts, and services from any private source for the purpose of defraying clerical and administrative costs.

C. Government Sector Impact:

The bill authorizes voting members of the commission to receive per diem and travel expenses in accordance with s. 112.061, F.S. Since the commission is “assigned” to the DEO, presumably the DEO is responsible for covering any expenses. The bill has an indeterminate, but expected to be minimal, negative fiscal impact to the DEO.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Chapter 20, F.S., defines the term “commission” to mean a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor, and *exercising limited quasi-legislative or quasi-judicial powers or both*, independently of the head of the department or the Governor.¹⁴ Chapter 20, F.S., defines the term “council” to mean an advisory body created by specific statutory enactment and appointed to

¹⁴ Section 20.03(10), F.S.

function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.¹⁵ The bill establishes the Florida *Commission* on Poverty, to serve as an advisory board to the Governor, Legislature, and appropriate agencies and entities. The bill appears to create a council, instead of a commission, and could be clarified accordingly.

The requirement that commission members be appointed for 4-year terms appears to apply to both voting and nonvoting members. If the intent is otherwise, the bill should be clarified accordingly.

It is unclear whether the vice chair has to be a voting member of the commission.

The bill does not specify standards for the commission to use in evaluating county applications for participation in the commission study.

The bill allows the commission, which is an advisory body, to contract for goods and services, and accept funds. It is unclear why an advisory body would need to undertake those activities.

VIII. Statutes Affected:

The bill creates an unnumbered section of Florida law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

See PCS 628090 by Fiscal Policy (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development) on February 24, 2016.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁵ Section 20.03(7), F.S.