

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Government Accountability
 2 Committee

3 Representative Fitzenhagen offered the following:

4

5 **Amendment (with directory and title amendments)**

6 Remove lines 38-167 and insert:

7 (r) All positions not otherwise exempt under this
 8 subsection which require as a prerequisite to employment:
 9 licensure as a physician pursuant to chapter 458, licensure as
 10 an osteopathic physician pursuant to chapter 459, licensure as a
 11 chiropractic physician pursuant to chapter 460, including those
 12 positions which are occupied by employees who are exempted from
 13 licensure pursuant to s. 409.352; licensure as an engineer
 14 pursuant to chapter 471, which are supervisory positions; or for
 15 12 calendar months, which require as a prerequisite to
 16 employment that the employee have received the degree of

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17 Bachelor of Laws or Juris Doctor from a law school accredited by
18 the American Bar Association and thereafter membership in The
19 Florida Bar, to include ~~except for~~ any attorney who serves as an
20 administrative law judge pursuant to s. 120.65 or for hearings
21 conducted pursuant to s. 120.57(1)(a). Unless otherwise fixed by
22 law, the department shall set the salary and benefits for these
23 positions in accordance with the rules established for the
24 Selected Exempt Service.

25 (w) Managerial employees, as defined in s. 447.203(4),
26 confidential employees, as defined in s. 447.203(5), and
27 supervisory employees who spend the majority of their time
28 communicating with, motivating, training, and evaluating
29 employees, and planning and directing employees' work, and who
30 have the authority to hire, transfer, suspend, lay off, recall,
31 promote, discharge, assign, reward, or discipline subordinate
32 employees or effectively recommend such action, including all
33 employees serving as supervisors, administrators, and directors.
34 Excluded are employees also designated as special risk or
35 special risk administrative support ~~and attorneys who serve as~~
36 ~~administrative law judges pursuant to s. 120.65 or for hearings~~
37 ~~conducted pursuant to s. 120.57(1)(a)~~. Additionally, registered
38 nurses licensed under chapter 464, dentists licensed under
39 chapter 466, psychologists licensed under chapter 490 or chapter
40 491, nutritionists or dietitians licensed under part X of
41 chapter 468, pharmacists licensed under chapter 465,

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42 | psychological specialists licensed under chapter 491, physical
43 | therapists licensed under chapter 486, and speech therapists
44 | licensed under part I of chapter 468 are excluded, unless
45 | otherwise collectively bargained.

46 | Section 2. Subsections (1) through (4) of section 120.65,
47 | Florida Statutes, are amended to read:

48 | 120.65 Administrative law judges.—

49 | (1) The Division of Administrative Hearings within the
50 | Department of Management Services shall be headed by the a
51 | director of the Division of Administrative Hearings. The
52 | director ~~who~~ shall be appointed by the Administration Commission
53 | and must be a full-time administrative law judge employed by the
54 | division and confirmed by the Senate. The director, who shall
55 | ~~also serve as the chief administrative law judge, and any deputy~~
56 | ~~chief administrative law judge must possess the same minimum~~
57 | ~~qualifications as the administrative law judges employed by the~~
58 | ~~division.~~ The Deputy Chief Judge of Compensation Claims must
59 | possess the minimum qualifications established in s. 440.45(2)
60 | and shall report to the director. The division is ~~shall be~~ a
61 | separate budget entity, and the director shall be its agency
62 | head for all purposes. The Department of Management Services
63 | shall provide administrative support and service to the division
64 | to the extent requested by the director. The division shall not
65 | be subject to control, supervision, or direction by the
66 | Department of Management Services in any manner, including, but

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67 not limited to, personnel, purchasing, transactions involving
68 real or personal property, and budgetary matters.

69 (2) The Governor and Cabinet shall appoint full-time
70 administrative law judges to conduct hearings in accordance with
71 this chapter. A person may not serve as an administrative law
72 judge unless he or she has been a member of The Florida Bar in
73 good standing for the previous 5 years. An administrative law
74 judge may not engage in the private practice of law during his
75 or her term of office.

76 (a)1. Except as provided in paragraph (b), the Governor
77 and Cabinet shall appoint an administrative law judge from a
78 list of three persons nominated by a statewide nominating
79 commission. The statewide nominating commission shall be
80 composed of three members, at least one of whom must be a
81 minority person as defined in s. 288.703, appointed by the
82 Governor; two members appointed by the Attorney General; two
83 members appointed by the Chief Financial Officer; and two
84 members appointed by the Commissioner of Agriculture.

85 2. Beginning July 1, 2017, the Governor and each member of
86 the Cabinet shall appoint one member to serve a 2-year term and
87 appoint the remaining members to serve 4-year terms. Thereafter,
88 each member shall be appointed for a 4-year term. A vacancy
89 occurring on the commission shall be filled by the original
90 appointing authority for the unexpired balance of the term.

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91 3. The meetings and determinations of the nominating
92 commission as to the administrative law judges shall be open to
93 the public.

94 (b) Each administrative law judge shall be appointed for a
95 4-year term, but during his or her term of office may be removed
96 by the Governor and Cabinet for cause. Before the expiration of
97 a judge's term of office, the statewide nominating commission
98 shall review the judge's conduct and determine whether the
99 judge's performance is satisfactory. In determining whether a
100 judge's performance is satisfactory, the commission shall
101 consider the extent to which the judge has met the requirements
102 of this chapter. The commission shall report its finding to the
103 Governor and Cabinet no later than 6 months before the
104 expiration of the judge's term of office. The Governor and
105 Cabinet shall review the commission's report and may reappoint
106 the administrative law judge for an additional 4-year term. If
107 the Governor and Cabinet do not reappoint the judge, the
108 Governor and Cabinet shall inform the commission. The judge
109 shall remain in office until the Governor and Cabinet have
110 appointed a successor judge in accordance with this subsection.
111 If a vacancy occurs during a judge's unexpired term, the
112 commission does not find the judge's performance satisfactory,
113 or the Governor and Cabinet do not reappoint the judge, the
114 Governor and Cabinet shall appoint a successor judge for a 4-
115 year term in accordance with paragraph (a).

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116 (c) The Governor and Cabinet shall appoint each
117 administrative law

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119
120 **D I R E C T O R Y A M E N D M E N T**

121 Remove line 33 and insert:

122 Section 1. Paragraphs (r) and (w) of subsection (2)

123
124 -----
125 **T I T L E A M E N D M E N T**

126 Remove lines 13-25 and insert:

127 Governor and Cabinet to appoint administrative law judges;
128 prohibiting an administrative law judge from engaging in
129 the private practice of law during his or her term of
130 office; requiring the Governor and Cabinet to appoint
131 administrative law judges from nominees recommended by a
132 statewide nominating commission unless otherwise provided;
133 specifying the composition and term lengths of members of
134 the commission; providing that meetings and determinations
135 of the commission are open to the public; specifying term
136 lengths of administrative law judges; prescribing
137 procedures for the commission to review a judge's
138 performance before the expiration of a term; requiring the
139 Governor and Cabinet to take certain action