

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 1421 Duties of the Chief Financial Officer
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Stevenson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SJR 792

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 2 N, As CS	Moore	Harrington
2) Appropriations Committee	23 Y, 2 N	Helping	Leznoff
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Chief Financial Officer (CFO) is an elected constitutional Cabinet member. The CFO serves as the chief fiscal officer of the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities. Such responsibilities include, but are not limited to, auditing and adjusting accounts of officers and those indebted to the state, paying state employee salaries, and reporting all disbursements of funds administered by the CFO.

The joint resolution would amend the Florida Constitution to require the CFO to participate as a principal in consensus economic, demographic, and revenue estimating conferences.

The joint resolution also requires the CFO, as prescribed by general law, to review and certify certain state contracts proposed by or on behalf of a state agency, entity, or officer of the executive branch. If a contract requires a payment or aggregate payments of more than \$10 million from funds appropriated to the state agency, entity, or officer, the CFO must review and certify the contract before it is executed. The CFO must ensure that the contract complies with state law as to its procurement and content and that any payments required to be made by the state agency, entity, or officer under the contract in any fiscal year do not exceed the amount appropriated for that fiscal year or the amount authorized by law for the purpose of the contract.

The joint resolution requires the Legislature to enact legislation to implement the requirements and to adjust the \$10 million threshold every four years to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or a successor index as calculated by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor agency.

The joint resolution may have a significant negative fiscal impact on the state (See *Fiscal Analysis and Economic Impact Statement*).

Article XI, s. 1 of the Florida Constitution requires a three-fifths vote of the members present and voting for final passage of a joint resolution proposing an amendment to the Florida Constitution. This joint resolution proposes a constitutional amendment, thus it requires a three-fifths vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Chief Financial Officer (CFO) is an elected constitutional Cabinet member.¹ The CFO serves as the chief fiscal officer of the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities.² Such responsibilities include, but are not limited to, auditing and adjusting accounts of officers and those indebted to the state,³ paying state employee salaries,⁴ and reporting all disbursements of funds administered by the CFO.⁵

The CFO also serves as the head of the Department of Financial Services (DFS), which executes the duties of the CFO.⁶ DFS consists of the following divisions:

- The Division of Accounting and Auditing;
- The Division of State Fire Marshal;
- The Division of Risk Management;
- The Division of Treasury;
- The Division of Insurance Fraud;
- The Division of Rehabilitation and Liquidation;
- The Division of Insurance Agents and Agency Services;
- The Division of Consumer Services;
- The Division of Workers' Compensation;
- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Division of Insurance Consumer Advocate;
- The Division of Funeral, Cemetery, and Consumer Services; and
- The Division of Public Assistance Fraud.⁷

The Financial Services Commission;⁸ the Board of Funeral, Cemetery, and Consumer Services;⁹ and the Strategic Markets Research and Assessment Unit¹⁰ are also established within DFS.

Florida Accountability Contract Tracking System

Section 215.985(14), F.S., requires the CFO to establish and maintain a secure online contract tracking system known as the Florida Accountability Contract Tracking System (FACTS).¹¹ Within 30 days after

¹ FLA. CONST. art. IV, s. 4,

² FLA. CONST. art. IV, s. 4(c); s. 17.001, F.S.

³ Section 17.04, F.S.

⁴ Section 17.09, F.S.

⁵ Section 17.11, F.S.

⁶ Section 20.121, F.S.

⁷ Section 20.121(2), F.S.

⁸ The Financial Services Commission is composed of the Governor and the Cabinet members and includes the Office of Insurance Regulation and the Office of Financial Regulation. The offices are responsible for activities of the commission relating to regulation and investigation of violations of law relating to insurance and financial institutions. Section 20.121(3)(a), F.S.

⁹ The Board of Funeral, Cemetery, and Consumer Services is created within the Division of Funeral, Cemetery, and Consumer Services and regulates licenses issued under ch. 497, F.S. Sections 20.121(4) and 497.103, F.S.

¹⁰ The Strategic Markets Research and Assessment Unit creates reports on issues, trends, and threats that broadly impact the condition of the financial services industries. Section 20.121(6), F.S.

¹¹ The FACTS website can be found online at: <http://www.myfloridacfo.com/aadir/statewidecontractreporting.htm> (last visited Feb. 6, 2018).

executing a contract, each state entity¹² is required to post the following information relating to the contract on FACTS:

- The names of the contracting entities.
- The procurement method.
- The contract beginning and ending dates.
- The nature or type of the commodities or services purchased.
- Applicable contract unit prices and deliverables.
- Total compensation to be paid or received under the contract.
- All payments made to the contractor to date.
- Applicable contract performance measures.
- If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any.
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential or exempt information.¹³

State entities must update the information on FACTS within 30 days of an amendment to an existing contract.¹⁴

Current law also requires each state agency¹⁵ to report to DFS, within three working days of executing a contract, the following information relating to certain contracted activities that are not awarded by competitive solicitation:¹⁶

- The nature of the commodities or services purchased.
- The term of the contract.
- The final obligation made by the agency.
- A summary of any time constraints that apply to the procurement.
- The justification for not using the competitive solicitation, including any statutory exemption or exception.
- Other information regarding the contract or the procurement that DFS requires.¹⁷

Effect of the Joint Resolution

The joint resolution would amend the Florida Constitution to require the CFO to participate as a principal in consensus economic, demographic, and revenue estimating conferences.

The joint resolution also requires the CFO, as prescribed by general law, to review and certify certain state contracts proposed by or on behalf of a state agency, entity, or officer of the executive branch. If a contract requires a payment or aggregate payments of more than \$10 million from funds appropriated to the state agency, entity, or officer, the CFO must review and certify the contract before it is executed. The CFO must ensure that the contract complies with state law as to its procurement and content and that any payments required to be made by the state agency, entity, or officer under the contract in any

¹² The term “state entity” means an official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; a state attorney, public defender, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Justice Administrative Commission; the Public Service Commission; and any part of the judicial branch of state government. Section 215.985(14)(h)2., F.S.

¹³ Section 215.985(14)(a), F.S.

¹⁴ Section 215.985(14)(b), F.S.

¹⁵ The term “state agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. The term includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Section 216.011(1)(qq), F.S.

¹⁶ Agencies must submit the information to DFS for contracts in excess of Category Two (\$35,000) if the goods and services were not purchased by competitive solicitation or from a state term contract. Section 216.0111(2), F.S.

¹⁷ Section 216.0111(1), F.S.

fiscal year do not exceed the amount appropriated for that fiscal year or the amount authorized by law for the purpose of the contract.

The joint resolution requires the Legislature to enact legislation to implement the requirements and to adjust the \$10 million threshold every four years to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or a successor index as calculated by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor agency.

The joint resolution must pass each chamber with a three-fifths vote before it may be placed on the ballot. Thereafter, it must be approved by 60 percent of the electors voting. If approved, the amendment will take effect January 8, 2019.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to impact state government revenues.

2. Expenditures:

According to DFS, the joint resolution may have an indeterminate negative fiscal impact on DFS for the additional staff required to perform the tasks outlined in the joint resolution. In addition, there may be costs to implement an information technology system to facilitate review of the contracts. DFS estimates to modify FACTS to implement the bill, costs could be in excess of \$1,500,000 nonrecurring in the first year and \$300,000 recurring for licensing and maintenance.¹⁸

If the proposed constitutional amendment were to pass, it would take effect January 8, 2019. DFS would be able to request additional budget authority in their Legislative Budget Request for fiscal year 2019-20 to implement the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to impact local government revenues.

2. Expenditures:

The joint resolution does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The joint resolution may have a negative fiscal impact on the Department of State as a result of publishing the proposed resolution. Article XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The department is required

¹⁸ Department of Financial Services, Agency Analysis for Senate Joint Resolution 792, Nov. 21, 2017 (on file with the Oversight, Transparency & Administration Subcommittee). Prior to being amended, SJR 792 was substantively identical to HJR 1421.

to advertise the full text of a proposed constitutional amendment twice in a newspaper of general circulation in each county before the election. The department is also required to provide each supervisor of elections with either booklets or posters displaying the full text of a proposed amendment.¹⁹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The joint resolution does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2018, the Oversight, Transparency & Administration Subcommittee adopted one amendment and reported the bill favorably with a committee substitute. The amendment requires the Legislature to adopt implementing legislation and makes other structural changes.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee.

¹⁹ Section 101.171, F.S.
STORAGE NAME: h1421c.APC
DATE: 2/27/2018