



The Florida Senate

Interim Report 2012-112

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Committee on Commerce and Tourism

IDENTIFICATION, REVIEW, AND RECOMMENDATION RELATING TO STATUTORY CHANGES NECESSARY TO IMPLEMENT THE GOVERNMENTAL REORGANIZATION REQUIRED BY CH. 2011-142, L.O.F.

Issue Description

Chapter 2011-142, L.O.F., reorganized the land planning and community development, workforce development, and economic development functions of state government. Many of the functions and responsibilities of the Department of Community Affairs, the Agency for Workforce Innovation, and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor were transferred into a new state agency called the Department of Economic Opportunity. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc.; the Florida Commission on Tourism was abolished, and the Florida Tourism Industry Marketing Corporation was directed to contract with Enterprise Florida, Inc. Additionally, the law reorganized a portion of the state's energy policy, by abolishing the Florida Energy and Climate Commission and transferring the majority of its functions and responsibilities to the Department of Agriculture and Consumer Services.

The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve the clarity and facilitate the correct and proper interpretation of the statutes. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes, showing the changes made and the reason for such recommended change.

While ch. 2011-142, L.O.F., sought to amend as many references and programs as possible in order to update the Florida Statutes with the governmental reorganization, there are likely to be additional changes necessary. This interim report will examine the reorganization, verify the application or status of current law, and review the Florida Statutes for obsolete references, inconsistencies, or statutory notes by the Division of Statutory Revision related to the reorganization. Recommendations for solutions to update the statutes will be made based upon this examination.

Background

Agencies and Entities Affected by the Governmental Reorganization

The Department of Community Affairs, the Agency for Workforce Innovation, the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor, and the Florida Energy and Climate Commission were abolished by ch. 2011-142, L.O.F.¹ The functions and responsibilities of these state agencies were either transferred or repealed; some functions and responsibilities were also modified as part of the transfer.

¹ Portions of this background were adapted from the Bill Analysis and Fiscal Impact Statement on SB 2156 by the Budget Committee (April 2, 2011), available at <http://www.flsenate.gov/Session/Bill/2011/2156> (last visited 7/20/2011).

Department of Community Affairs²

The Department of Community Affairs (DCA) was the state's land planning and community development agency. DCA had several divisions and programs that it administered. The following list describes the various divisions and programs of DCA and the transfer of such divisions or programs as a result of the governmental reorganization:

- The Division of Community Planning administered Florida's growth management programs and worked closely with local governments and other state agencies to ensure high quality growth and sustainable patterns of development across the state. This division was transferred to the Department of Economic Opportunity (DEO), Division of Community Development.
- The Division of Housing and Community Development administered state and federal programs designed to provide community and economic development assistance to local agencies. The division provided grants to eligible local governments for infrastructure, revitalization, disaster recovery, housing rehabilitation, and economic development, and assisted citizens with meeting critical needs such as housing, transportation, and emergency utility payments. This division was transferred to DEO, Division of Community Development.
 - The division also staffed the Florida Building Code Commission, which implements and regulates the unified statewide code for all buildings and structures in Florida. The Florida Building Code Commission was transferred to the Department of Business and Professional Regulation.
- The Division of Emergency Management (DEM) was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. DEM directs and coordinates state, federal, and local efforts to deal with natural disasters, such as tornadoes and hurricanes, as well as man-made disasters and accidents. DEM was transferred to the Executive Office of the Governor, while retaining its status as a separate budget entity.³
- DCA administered the Florida Communities Trust, which administered two state land acquisition grant programs. The Parks and Open Space Florida Forever Grant Program provides funding to local governments and eligible non-profit environmental organizations for the acquisition of community-based parks, open space and greenways that further both the outdoor recreation and natural resource protection needs identified in local government comprehensive plans. The Stan Mayfield Working Waterfronts Florida Forever Grant Program uses grant funds to acquire parcels of land either directly used for commercial harvest of marine organisms or saltwater products, or used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about economic, cultural, and historic heritage of Florida's traditional working waterfronts. The Florida Communities Trust and these programs were transferred to the Department of Environmental Protection.⁴
- The Florida Housing Finance Corporation was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. The corporation is a public entity that works to assist Floridians in obtaining safe, affordable housing. The corporation was transferred to DEO, while retaining its status as a separate budget entity.

Agency for Workforce Innovation⁵

The Agency for Workforce Innovation (AWI) was Florida's lead state workforce agency and administered the state's unemployment compensation program and early learning services. The following list describes the various offices of AWI and the transfer of such offices as a result of the governmental reorganization:

- The Office of Workforce Services managed the performance-based contract with Workforce Florida, Inc., for the statewide administration and coordination of workforce services; disbursed federal workforce funds; and provided One-Stop Program Support services (workforce program information, guidance, and

² Abolished by s. 3, ch. 2011-142, L.O.F. See also s. 478, ch. 2011-142, L.O.F., which repeals the statutory authority for DCA.

³ See s. 11, ch. 2011-142, L.O.F., and s. 14.2016, F.S. (2011).

⁴ See Florida Communities Trust website, available at <http://www.floridacommunitiestrust.org/> (last visited 9/8/2011).

⁵ Abolished by s.1, ch. 2011-142, L.O.F. See also s. 479, ch. 2011-142, L.O.F., which repeals the statutory authority for AWI.

technical assistance) to the Regional Workforce Boards. This office was transferred to DEO, Division of Workforce Services.

- The Unemployment Compensation Program administered the state's unemployment compensation programs. This unit was transferred to DEO, Division of Workforce Services.
 - The Unemployment Appeals Commission was administratively housed within AWI. The commission is a quasi-judicial administrative appellate body. The commission was transferred to be administratively housed with DEO.
- The Office of Early Learning implemented early learning services for the state, including the state's Child Care Resource and Referral, School Readiness, and Voluntary Prekindergarten Programs.⁶ This office was transferred to the Department of Education as a separate budget entity and is not subject to control, supervision, or direction by the department.⁷

Other Components of Florida's Workforce System

Florida's workforce system was designed to create partnerships among economic development, workforce development, and businesses. Workforce Florida, Inc. (WFI), a not-for-profit corporation, is the principal workforce policy organization for the state. The Governor appoints WFI's board of directors, a majority of which must be representatives from the business community.⁸ WFI's "purpose is to develop the state business climate by designing and implementing strategies that help Floridians enter, remain and advance in the workforce, becoming more highly skilled and successful, benefiting Florida businesses and the entire state."⁹ WFI was administratively housed within AWI, but was not subject to control, supervision, or direction by AWI; WFI contracted with AWI for the administration and coordination of workforce services. WFI was transferred to DEO, while retaining its status, and contracts with DEO for workforce services.¹⁰

Twenty-four Regional Workforce Boards (boards) serve as the local planning and workforce service delivery systems. The boards' service delivery areas are closely aligned with the Florida College System. The setup of Florida's workforce system allows each board to implement the policies based upon the economic development, business, and workforce needs of its particular region of the state.¹¹ The boards operate under a charter approved by WFI and implement the policies developed by WFI, consistent with the parameters set by the U.S. Department of Labor and federal law.¹² AWI provided program support services to the boards through a performance based memorandum of understanding for the delivery of employment services authorized by federal law. Program support services are now provided by DEO.¹³

⁶ The early learning program was designed as a two-tier program with AWI and the Department of Education (DOE) at the state level and early learning coalitions at the local level. AWI was responsible for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all early learning programs (now the Office of Early Learning within DOE has these responsibilities). DOE is responsible for establishing readiness standards and guidelines for VPK program content. The early learning coalitions plan, coordinate, and implement the early learning programs, following the standards and guidelines established by the state agencies. There are 31 early learning coalitions. In addition, the Department of Children and Families is responsible for the licensing and credentialing of early learning providers.

⁷ See s. 12, ch. 2011-142, L.O.F., and s. 20.15(3)(h), F.S.

⁸ Other board members represent organized labor, private staffing firms, private colleges and universities, the Department of Education, and workforce services customers. "Special Examination: Review of the Workforce Development System," Office of Program Policy and Government Accountability. Report No. 03-10, January 2003, p. 4, available at <http://www.opppaga.state.fl.us/Reports/pdf/0310rpt.pdf> (last visited 9/12/2011). See also 29 U.S.C. 2821.

⁹ WFI Annual Report 2009-2010, October 1, 2010, available at <http://www.workforceflorida.com/Publications/docs/2010AnnualReportSubmissionCompressed.pdf> (last visited 9/12/2011).

¹⁰ Section 445.004, F.S.

¹¹ WFI Annual Report 2009-2010, pp. 9, 47.

¹² Section 445.007, F.S.

¹³ Section 445.009, F.S.

Office of Tourism, Trade, and Economic Development and Public/Private Partnerships¹⁴

The Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor assisted the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. OTTED provided executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure. The responsibilities and functions of OTTED were transferred to DEO, mainly to the Division of Strategic Business Development.

OTTED administered a number of economic development incentive programs, including the Qualified Target Industry Refund Program and the Quick Action Closing Fund, which were implemented by public/private partnerships under OTTED's oversight.

The following list describes the various public/private partnerships under OTTED's oversight and the effect of the governmental reorganization on the partnerships:¹⁵

- Enterprise Florida, Inc. (EFI), serves as Florida's statewide economic development organization. EFI is now required to contract with DEO.¹⁶ Other significant changes to EFI include:
 - The organizational structure of EFI has changed: previously EFI had created its own internal organizational structure of units and councils. Now, while EFI may still create and dissolve divisions, it must have divisions related to international trade and business development; business retention and recruitment; tourism marketing; minority business development; and sports industry development.¹⁷
 - The president of EFI is now also known as the "secretary of commerce," and will serve as the Governor's chief negotiator for business recruitment and business expansion.¹⁸
 - More specific information is now required in EFI's annual incentives report. The report must include certain information about incentives programs and projects, including the economic benefits¹⁹ of each incentive program, a description of trends regarding the types and location of businesses using state incentives, an identification of incentives programs not utilized, and the number of businesses that withdrew or were terminated from the incentive programs.²⁰
- Florida Black Business Investment Board, Inc. (BBIB), assisted in developing and expanding black business enterprises and advised OTTED in the oversight of the Black Business Loan Program. The functions and responsibilities of BBIB were transferred to EFI; EFI is required to have a division related to minority business development.²¹
- Florida Sports Foundation, Incorporated served as the official sports promotion and development organization for the State of Florida. The functions and responsibilities of the Florida Sports Foundation were transferred to EFI; EFI is required to have a division related to sports industry development.²²
- Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation d/b/a Visit Florida oversaw the state's tourism efforts and marketed and facilitated travel to and within Florida for the benefit of its residents, economy, and travel and tourism industries. The functions and responsibilities

¹⁴ Abolished by s. 4, ch. 2011-142, L.O.F. See also s. 477, ch. 2011-142, L.O.F., which repeals the statutory authority for OTTED.

¹⁵ See s. 7, ch. 2011-142, L.O.F.

¹⁶ EFI's statutes were significantly rewritten. See ss. 22-32, ch. 2011-142, L.O.F.

¹⁷ Section 288.92, F.S.

¹⁸ Section 288.905(1), F.S.

¹⁹ "Economic benefits" is defined in s. 288.005(1), F.S., as the "direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives."

²⁰ See s. 288.907, F.S., for more specificity on the annual incentives report; see also s. 288.095(3)(c), F.S. The report had been solely required by s. 288.095(3)(c), F.S. (2010).

²¹ See s. 30, ch. 2011-142, L.O.F. and s. 288.92, F.S. See also s. 487, ch. 2011-142, L.O.F., which repeals the statutory authority for BBIB.

²² See s. 30, ch. 2011-142, L.O.F. and s. 288.92, F.S. See also ss. 485 and 488, ch. 2011-142, L.O.F., which repeals the statutory authority for the Florida Sports Foundation.

of the Florida Commission on Tourism were transferred to EFI, specifically the Division of Tourism Marketing. The Florida Tourism Industry Marketing Corporation is now required to contract with EFI.²³

- Space Florida promotes and develops space-related economic development and education in Florida. The board of directors of Space Florida is now made up of a portion of the board of directors of EFI. Space Florida is still an independent special district.²⁴
- Office of Film and Entertainment develops and expands the state's motion picture and entertainment industry sectors and promotes and markets Florida as a production and filming location. The office is a special unit that operated within OTTED. The office is now housed within DEO.²⁵

Florida Energy and Climate Commission²⁶

The Florida Energy and Climate Commission (FECC) was created in 2008 by the Legislature to provide a single entity that would develop, coordinate, and implement energy policies for the state. It was housed within the Executive Office of the Governor. FECC administered the Florida Renewable Energy and Energy-Efficient Technologies Grants Program, the Florida Green Government Grants Act, the Florida Energy and Climate Protection Act. FECC also had reporting and planning responsibilities under ch. 377, F.S.²⁷ The functions and responsibilities of FECC were transferred to the Department of Agriculture and Consumer Services (DACS), which created an Office of Energy.²⁸ Additionally, FECC's emergency management responsibilities were transferred to the Division of Emergency Management and administration of the Coastal Energy Impact Program was transferred to the Department of Environmental Protection.

Florida Ready to Work

Florida Ready to Work is an employee credentialing program that is funded by the state.²⁹ The program allows participants to take a skills test and credentialing classes online to earn a "career readiness certificate." Floridians may use this program for free. The program was administered by the Department of Education; administration of the program was transferred to DEO to implement in coordination with the Department of Education.³⁰

Department of Economic Opportunity

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of Florida's government into one state agency. As discussed above, many of the functions and responsibilities of former state agencies were transferred to the newly created Department of Economic Opportunity.³¹

The purpose of the Department of Economic Opportunity (DEO) is "to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians."³²

²³ See ss. 30 and 31, ch. 2011-142, L.O.F., and ss. 288.92 and 288.923, F.S. See also s. 485, ch. 2011-142, L.O.F., which repeals the statutory authority for the Florida Commission on Tourism.

²⁴ See s. 236, ch. 2011-142, L.O.F., and s. 331.3081, F.S.

²⁵ See s. 167, ch. 2011-142, L.O.F., and s. 288.1251, F.S.

²⁶ Abolished by s. 500, ch. 2011-142, L.O.F. See also s. 505, ch. 2011-142, L.O.F., amending s. 377.6015, F.S. (2010).

²⁷ See Bill Analysis and Fiscal Impact Statement on SB 2106 by the Budget Committee (April 4, 2011), available at <http://www.flsenate.gov/Session/Bill/2011/2106> (last visited 9/8/2011).

²⁸ See s. 524, ch. 2011-142, L.O.F., and s. 570.074, F.S. See also the Office of Energy website, which includes a history of state entities dealing with Florida energy policy, available at <http://www.freshfromflorida.com/offices/energy/> (last visited 9/8/2011).

²⁹ Website available at <http://floridareadytowork.com/> (last visited 9/8/2011).

³⁰ See s. 5, 2011-142, L.O.F., and s. 445.06, F.S.

³¹ For more information see also the Office of Program Policy Analysis and Government Accountability's Government Program Summaries on DEO, available at <http://www.oppaga.state.fl.us/profiles/6101/> (last visited 9/9/2011).

³¹ See ch. 163, Part II, F.S.

³² Section 20.60(4), F.S.

DEO must “ensure that the state’s goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.”³³ The department also is directed to manage the activities of public/private partnerships and state agencies to avoid duplication and promote coordinated and consistent implementation of programs.

The law provided for a transition period between July 1, 2011, and October 1, 2011, to complete the governmental reorganization and establish DEO.³⁴ A private consulting firm was hired by the Executive Office of the Governor to assist in the structuring of the new agency. The firm was charged with reviewing best practices for state economic development agencies and recommending an organizational structure for DEO. The firm articulated several guidelines for developing the agency, including:³⁵

- Assuring DEO establishes a single point of contact for economic and job growth initiatives;
- Reducing the response time of state and local governments to businesses; and
- Involving all relevant state agencies and economic players (“such as seaports, airports, rail lines, regional and local economic development organizations, business associations, etc.”) in forming DEO’s strategic plan.

DEO is required by statute to have four divisions:³⁶

1. The Division of Community Development;
2. The Division of Workforce Services;
3. The Division of Strategic Business Development; and
4. The Division of Finance and Administration.

As of the time of this report, DEO is still in a transition period. While the functions and responsibilities of each division are set forth in statute generally, as the department is developed and organized the specific responsibilities of each division and how the divisions interact will become evident. For example, the private consulting firm recommended including an information systems unit that would manage technology-related projects and data systems for the agency.³⁷

In general:

- The Division of Community Development includes former DCA responsibilities and functions. Generally, the division assists local governments and communities in planning functions and administers state and federal community development and project planning grant programs.³⁸
- The Division of Workforce Services includes former AWI responsibilities and functions. The division administers the plans and policies of Workforce Florida, Inc., and federal and state workforce funding. The division also administers the state’s unemployment compensation program.³⁹
- The Division of Strategic Business Development includes former OTTED responsibilities and functions. The division analyzes and evaluates business prospects and administers tax refund, tax credit, and grant programs. The division is responsible for developing measurements for the state incentives programs and public/private partnerships, which will be used to determine their performance and competitive value to Florida. The division is also responsible for development of the 5-year strategic plan.⁴⁰

³³ Section 26.60(4)(d), F.S.

³⁴ A transition report was required by August 15, 2011. s. 6(4), ch. 2011-142, L.O.F. A Joint Progress Report was submitted, and is available at <http://www.dca.state.fl.us/downloads/JointProgressReportDEO.pdf> (last visited 9/8/2011).

³⁵ “Organization Structure for the Department of Economic Opportunity, State of Florida, Final Report,” by MGT of America, Inc., August 19, 2011, on file with the Commerce and Tourism Committee.

³⁶ Section 20.60(3), F.S. Specific responsibilities for each division are set forth in s. 20.60(5), F.S.

³⁷ See Appendix for DEO organization charts.

³⁸ Section 26.60(5)(b), F.S.

³⁹ Section 20.60(5)(c), F.S.

⁴⁰ Section 20.60(5)(a), F.S.

- The Division of Finance and Administration is responsible for accounting, budgeting, grants management, and other financial related activities and human resources.

The law required DEO to prepare a business plan in conjunction with EFI and Workforce Florida, Inc., by September 1, 2011.⁴¹ The plan is required to discuss the use of economic development incentive funds and plans for attracting out-of-state businesses, promoting the expansion of existing Florida businesses, and encouraging the creation of new businesses. The law also required the business plan to include certain benchmarks and the tools and time-frames necessary to achieve those benchmarks. While a business plan was submitted by DEO on September 1, as required by the law, the plan will be further developed in part due to the continuing transition of the reorganization. The September 1st business plan sets forth three goals for DEO:

1. Increase Florida's global competitiveness as a destination for business, capital, talent, innovation, and entrepreneurship.
2. Promote Florida as the global destination of choice for business and industry.
3. Facilitate business development through delivery of world-class customer service.

DEO, specifically the Division of Strategic Business Development, is required to develop a 5-year strategic plan, which must be updated every 5 years.⁴² All divisions are required to participate in the development of the 5-year strategic plan, and DEO is directed to involve EFI, local and regional economic development organizations, Workforce Florida, Inc., other local, state, and federal economic, international, and workforce development entities, local governments, the general public, the business community, and educational institutions to assist with the plan. The plan must include:⁴³

- Strategies for the promotion of business formation, expansion, recruitment, and retention through marketing, international development, and export assistance;
- Plans for long-term economic development in Florida with increased emphasis in market research and information;
- Policies and programs to further the economic diversity of the state, its regions, and their associated industrial clusters;
- Specific provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state, including strategies for rural marketing and the development of infrastructure in rural areas;
- Plans for the generation of foreign investment in Florida;
- Identification of business sectors that are of current or future importance to the state's economy and to the state's global business image, and development of specific strategies to promote the development of such sectors; and
- Strategies for talent development necessary in the state to encourage economic development growth.

As DEO completes the transition period and begins to develop the 5-year strategic plan and further develop the business plan, the law also requires DEO to submit recommendations to the Governor and the Legislature for further reorganization and streamlining.⁴⁴ Specifically the law requires recommendations for economic development and workforce functions that improve the effectiveness and operation of those programs. Such recommendations are due January 1, 2012.

Section 20.601, F.S., requires an agency review of DEO and EFI no later than July 1, 2016. The statute sets forth specific information and measures DEO must include in its review. Additionally, the Office of Program Policy Analysis and Government Accountability is required to review DEO and EFI and submit a report to the Legislature, with recommendations, by December 31, 2016.

⁴¹ Section 8, ch. 2011-142, L.O.F. "State of Florida Job Creation Plan: A Business Plan Developed by the Department of Economic Opportunity" is on file with the Commerce and Tourism Committee.

⁴² There is no statutory due date for the strategic plan.

⁴³ Section 20.60(5)(a)4., F.S.

⁴⁴ Section 8(2), ch. 2011-142, L.O.F.

Findings and/or Conclusions

In ch. 2011-142, L.O.F., the Legislature recognized the need to conform the Florida Statutes to the policy decisions reflected in the law and resolve apparent conflicts between any other legislation passed during the 2011 Regular Session and the transfer of duties made by the law.⁴⁵

Methodology

The professional staff of the Senate Commerce and Tourism Committee worked with the Division of Statutory Revision to identify various issues in the Florida Statutes due to the governmental reorganization. Staff searched the Florida Statutes for terms related to the former agencies and public/private partnerships. Additionally, staff contacted the transition coordinators for the various affected agencies for input.

Findings

Generally, staff found several references remaining in statute to DCA, AWI, and OTTED. Some of these references exist due to other laws passed in the 2011 Regular Session. Additionally, staff discovered some idiosyncrasies due to multiple revisions of the original bill. Some agencies also directed staff to inappropriate changes in references.

Options and/or Recommendations

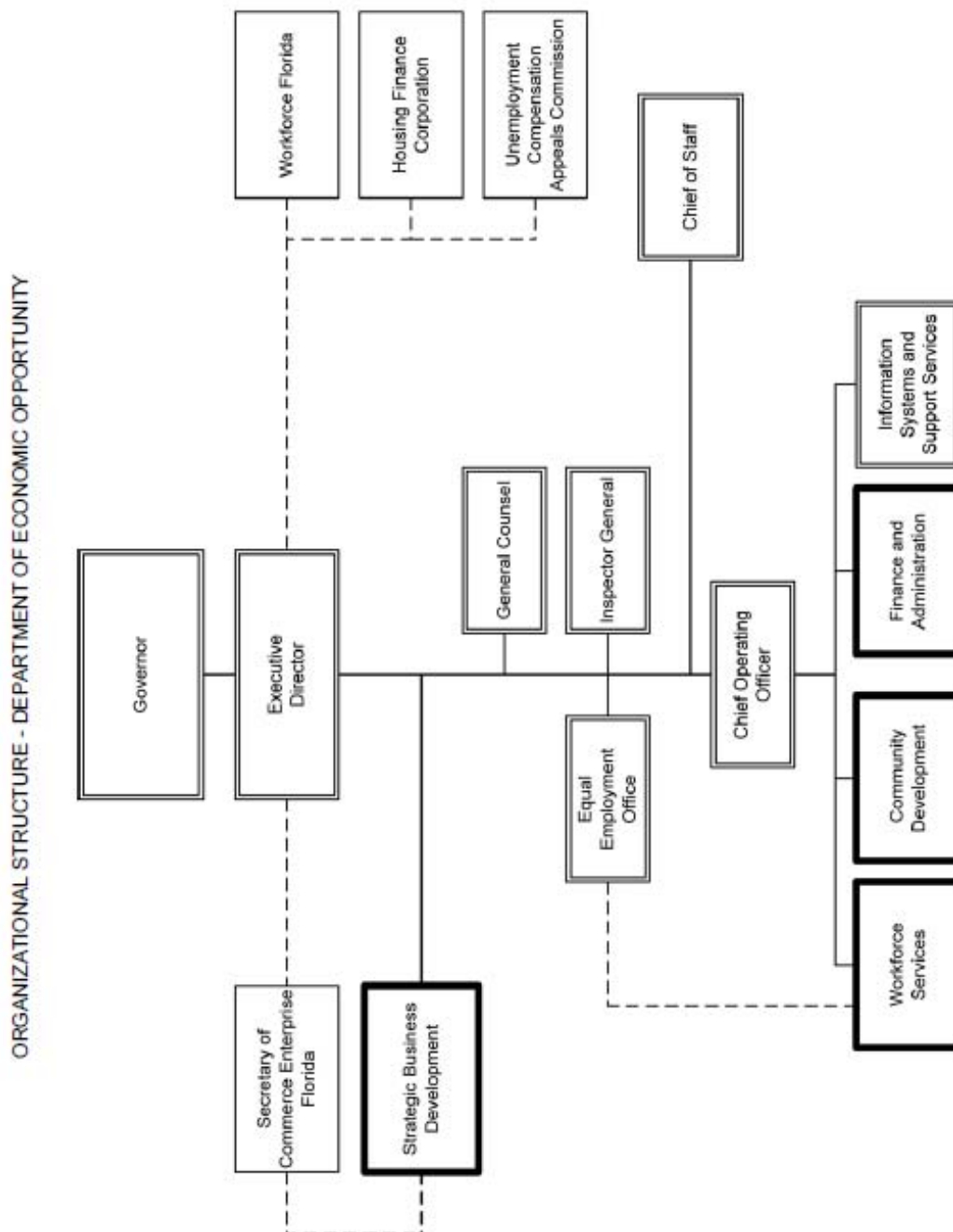
Based upon review of the Florida Statutes, it is the recommendation of the professional staff of the Senate Commerce and Tourism Committee that draft legislation be developed to:

- Update references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation;
- Update provisions or references which were enacted by other chapter laws;
- Revise provisions or references which were drafting errors; and
- Repeal any remaining outdated provisions.

The committee may want to include additional revisions, including those recommended by the entities affected by the governmental reorganization. For example, the requirement for the development of a business plan could be put into statute with added specificity for the plan and requirements for periodic review. The committee may also want to consider any recommendations presented by DEO as required by ch. 2011-142, L.O.F., that will be presented to the Legislature by January 1, 2012.

⁴⁵ Section 10, ch. 2011-142, L.O.F., also directs the Division of Statutory Revision to assist substantive committees to identify issues.

Appendix: Department of Economic Opportunity Organization Charts



ORGANIZATIONAL STRUCTURE - DEPARTMENT OF ECONOMIC OPPORTUNITY DETAIL

