

STORAGE NAME: s0712a.grr

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
ANALYSIS**

BILL #: SB 712

RELATING TO: Executive Appointments

SPONSOR(S): Committee on Gubernatorial Appointments and Confirmation; and others

COMPANION BILL(S): CS/HB 1839 (c), CS/SB 880 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL RULES AND REGULATIONS YEAS 7 NAYS 0
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I. SUMMARY:

SB 712 proposes numerous changes to statutes relating to boards whose members are required to be confirmed by the Senate. The bill repeals obsolete language, conforms conflicting language, provides in statute for the terms of office of board members whose terms are currently established by rule, eliminates the Senate confirmation of those board members the Legislature has specifically required to be appointed to boards and clarifies existing language.

This bill amends ss. 14.29, 20.171, 20.23, 20.255, 20.315, 20.316, 20.41, 186.504, 231.545, 240.145, 240.313, 246.205, 288.707, 288.901, 288.9412, 288.9512, 288.9604, 288.9611, 288.9620, 331.308, 349.03, 350.01, 370.19, 370.20, 373.0693, 380.504, 404.31, 447.205, 468.1135, 468.203, 468.205, 468.4315, 468.521, 468.605, 468.801, 475.02, 475.613, 476.054, 477.015, 480.035, 483.805, 489.107, 491.004, 497.101, 601.04, 945.602, 947.01, 947.03, F.S., and repeals ss. 464.0045 and 947.022, F.S.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Senate confirms an average of 425 gubernatorial and other appointees each year. This includes appointees to approximately 170 boards and commissions, secretaries of departments of the executive branch, executive directors of water management districts and various other officials.

When creating and revising statutes relating to membership on various boards, the Legislature frequently includes transition language relating to terms of board members. Generally, when boards are created with member terms of four years, the statutes provide for the initial members of the board to receive terms of one, two, three, and four years, in order to provide for staggered terms of members. Following the initial appointments, members are appointed to full four-year terms. Once the initial appointments are made, there is no longer a need for the transition language to appear in the statutes. There are numerous obsolete provisions in the current statutes relating to transition language.

Chapter 20, Florida Statutes, contains provisions governing the terms of board members serving on various boards within the jurisdiction of the Department of Business and Professional Regulation and the Department of Health. In some cases, the specific statute regulating a board contains language which conflicts with the provisions of Chapter 20.

The statutes do not provide for the length of the term of several boards. Specifically, Regional Planning Councils and Boards of Trustees of Community Colleges have established the terms of their members by administrative rule. In the case of Regional Planning Councils, each council has set the terms of the council members. Terms of members of Regional Planning Councils appointed by the Governor are two years, three years, or at the pleasure of the Governor, depending on the specific council. Chapter 6A-14.024(2), F.A.C, sets the term of office of Members of the Board of Trustees of Community Colleges at four years.

Some boards have provisions requiring certain designated persons to be appointed to the board. For example, the Board of Directors of the International Trade and Economic Development Board require the chairperson or the chairperson's designee of the following organizations to be appointed and confirmed: World Trade Association of Florida; Florida Airport Managers Association; Florida Custom Brokers and Forwarders Association; Florida International Banking Association; International Law Section of the Florida Bar; and Latin Chamber of Commerce of the United States. Since the Legislature has provided in statute that certain organizations should be represented on the board, there may not be a need for the Senate to confirm these members. In addition, the chairperson of these organizations is likely to change before the four year term of the member has expired, thereby requiring recurring Senate confirmation for the same position.

Similarly, the language creating the Board of Supervisors of the Spaceport Florida Authority requires confirmation of one Senate and one House member, even though they are ex-officio nonvoting members of the authority. Under these circumstances, there does not appear to be a compelling reason to confirm these members.

Finally, there are several provisions relating to boards and commissions which are unclear or are outdated. For example, the current statutes require that the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission have as a member a legislator who is a member of the House Committee on Commerce and Reciprocal Trade, as designated by the Committee on Commerce and Reciprocal Trade. Since there is no such committee in the House, this language should be changed.

B. EFFECT OF PROPOSED CHANGES:

SB 712 proposes numerous changes to statutes relating to boards whose members are required to be confirmed by the Senate. The bill repeals obsolete language, conforms conflicting language, provides in statute the terms of office of board members whose terms are currently established by rule, eliminates the Senate confirmation of those board members which the Legislature has specifically required to be appointed to boards, and clarifies existing language.

Section 1 - Amends s. 14.29, F.S., eliminating obsolete language relating to terms of initial members of the Florida Commission on Community Service.

Section 2 - Amends s. 20.171, F.S., eliminating obsolete language relating to terms of initial members of the Unemployment Appeals Commission.

Section 3 - Amends s. 20.23, F.S., eliminating obsolete language regarding appointments of the Secretary of Transportation prior to October 1, 1987.

Section 4 - Amends s. 20.255, F.S., clarifying the terms of members of the Environmental Regulation Commission and clarifying language regarding vacancies.

Section 5 - Amends s. 20.315, F.S., eliminating obsolete language relating to terms of initial members of the Florida Corrections Commission.

Section 6 - Amends s. 20.316, F.S., requiring the Secretary of Juvenile Justice to be subject to confirmation by the Senate. Pursuant to s. 20.05, F.S., all secretaries appointed as heads of departments are subject to confirmation.

Section 7 - Amends s. 20.41, F.S., eliminating obsolete language regarding the Secretary of Elderly Affairs.

Section 8 - Amends s. 186.504, F.S., providing a statutory term of three years for members of Regional Planning Councils. Currently these terms are provided by rule of each council and the terms are different among the councils.

Section 9 - Amends s. 231.545, F.S., eliminating obsolete language relating to appointments to the Education Standards Commission.

Section 10 - Amends s. 240.145, F.S., eliminating obsolete language relating to the terms of the initial members of the Postsecondary Education Planning Commission.

Section 11 - Amends s. 240.313, F.S., providing a statutory term of four years for members of the Board of Trustees of a Community College. The current terms of four years are provided by rule, rather than by statute.

Section 12 - Amends s. 246.205, F.S., eliminating obsolete language relating to the terms of initial members of the State Board of Nonpublic Career Education.

Section 13 - Amends s. 288.707, F.S., eliminating obsolete language relating to the terms of initial members of the Florida Black Business Investment Board and clarifying the qualifications and membership of the members of the Board.

Section 14 - Amends s. 288.901, F.S., eliminating obsolete date specific language regarding the requirement of members of Enterprise Florida, Inc., to file financial disclosure statements.

Section 15 - Amends s. 288.9412, F.S., eliminating the requirement for certain specific members of the International Trade and Economic Development Council to be confirmed by the Senate and eliminating obsolete language regarding the terms of initial members of the council.

Section 16 - Amends s. 288.9512, F.S., eliminating obsolete language regarding the terms of initial members of the Technology Development Board.

Section 17 - Amends s. 288.9604, F.S., eliminating obsolete language regarding the terms of initial members of the Florida Development Finance Corporation.

Section 18 - Amends s. 288.9611, F.S., eliminating obsolete language regarding the terms of initial members of the Capital Development Board.

Section 19 - Amends s. 288.9620, F.S., eliminating obsolete language regarding the terms of members of the Workforce Development Board; specifying the Secretary of Children and Family Services as a board member.

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Section 20 - Amends s. 331.308, F.S., eliminating the requirement of Senate confirmation for the legislators appointed to serve as ex-officio nonvoting members of the Spaceport Florida Authority; eliminating obsolete language relating to the terms of initial members of the authority; eliminating obsolete language relating to the initial meeting of the authority.

Section 21 - Amends s. 349.03, F.S., eliminating obsolete language relating to terms of members of the Jacksonville Transportation Authority serving on July 1, 1979.

Section 22 - Amends s. 350.01, F.S., eliminating obsolete language relating to terms of members of the Public Service Commission; eliminating date specific language regarding the term of the chairman of the commission.

Section 23 - Amends s. 370.19, F.S., revising the statutory provisions of the Atlantic States Marine Fisheries Compact to conform to the actual compact; revising the membership of the members of the commission from Florida; providing that the ex-officio legislative member of the commission be appointed by the Governor from lists submitted by the President of the Senate or the Speaker of the House; providing that the legislators shall be appointed on a rotating basis beginning with the appointment of a Senator.

Section 24 - Amends s. 370.20, F.S., revising the membership of the members of the Gulf State Marine Fisheries Commission; providing that the ex-officio legislative member of the commission be appointed by the President of the Senate or the Speaker of the House, as applicable, on a rotating basis beginning with the appointment of the House member.

Section 25 - Amends s. 373.0693, F.S., clarifying the terms of members of basin boards.

Section 26 - Amends s. 380.504, F.S., eliminating obsolete language regarding the terms of the initial members of the Florida Communities Trust.

Section 27 - Amends s. 404.31, F.S., eliminating obsolete language relating to the initial members of the Southeast Interstate Low-Level Radioactive Waste Management Commission.

Section 28 - Amends s. 447.205, eliminating obsolete language relating to the terms of the members of the Public Employees Relations Commission.

Section 29 - Repeals s. 464.0045, F.S., repealing unnecessary language regarding the initial terms of certain members of the Board of Nursing.

Section 30 - Amends s. 468.1135, F.S., eliminating obsolete language relating to the terms and qualifications of initial members of the Board of Speech-Language Pathology and Audiology.

Section 31 - Amends s. 468.203, F.S., creating a definition.

Section 32 - Amends s. 468.205, F.S., eliminating obsolete language relating to the terms of initial members of the Board of Occupational Therapy Practice.

Section 33 - Amends s. 468.4315, F.S., deleting unnecessary language relating to terms of members of the Regulatory Council of Community Association Managers.

Section 34 - Amends s. 468.521, F.S., deleting unnecessary language relating to term of members of the Board of Employee Leasing Companies.

Section 35 - Amends s. 468.605, F.S., eliminating obsolete language relating to the terms of the initial members of the Florida Building Code Administrators and Inspectors Board; eliminating the term limitation for Board members due to a conflict with s. 20.165, F.S.

Section 36 - Amends s. 468.801, F.S., eliminating obsolete language relating to the terms of initial members of the Board of Orthotists and Prosthetists; eliminating the provision for additional terms of members which conflicts with s. 20.43, F.S.

Section 37 - Amends s. 475.02, F.S., eliminating unnecessary language relating to terms of members of the Florida Real Estate Commission.

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Section 38 - Amends s. 475.613, F.S., eliminating unnecessary date specific language; eliminating obsolete language relating to the terms of initial members of the Florida Real Estate Appraisal Board; eliminating the term limitation for Board members due to a conflict with s. 20.165, F.S.

Section 39 - Amends s. 476.054, F.S., eliminating the term limitation for members of the Barbers' Board due to a conflict with s. 20.165, F.S.

Section 40 - Amends s. 477.015, F.S., eliminating the term limitation for members of the Board of Cosmetology due to a conflict with s. 20.165, F.S.

Section 41 - Amends s. 480.035, F.S., eliminating the term limitation for members of the Board of Massage Therapy due to a conflict with s. 20.43, F.S.

Section 42 - Amends s. 483.805, F.S., eliminating obsolete language relating to the terms of initial members of the Board of Clinical Laboratory Personnel.

Section 43 - Amends s. 489.107, F.S., eliminating the term limitation for members of the Construction Industry Licensing Board due to a conflict with s. 20.165, F.S.

Section 44 - Amends s. 491.004, F.S., eliminating obsolete language relating to the term of initial members of the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

Section 45 - Amends s. 497.101, F.S., eliminating obsolete language relating to the terms of certain members of the Board of Funeral and Cemetery Services to provide for staggered terms.

Section 46 - Amends s. 601.04, F.S., revising language relating to the terms of members of the Florida Citrus Commission when the commission is redistricted.

Section 47 - Amends s. 945.602, F.S., eliminating unnecessary date specific language relating to appointments of members of the State of Florida Correctional Medical Authority.

Section 48 - Amends s. 947.01, F.S., eliminating unnecessary language relating to the reduction of members of the Parole Commission.

Section 49 - Repeals s. 947.022, F.S., repealing provisions which have had their effect relating to terms of the members of the Parole Commission.

Section 50 - Amends s. 947.03, F.S., eliminating obsolete language relating to terms of members of the Parole Commission.

Section 51 - Provides an effective date of October 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill amends ss. 14.29, 20.171, 20.23, 20.255, 20.315, 20.316, 20.41, 186.504, 231.545, 240.145, 240.313, 246.205, 288.707, 288.901, 288.9412, 288.9512, 288.9604, 288.9611, 288.9620, 331.308, 349.03, 350.01, 370.19, 370.20, 373.0693, 380.504, 404.31, 447.205, 468.1135, 468.203, 468.205, 468.4315, 468.521, 468.605, 468.801, 475.02, 475.613, 476.054, 477.015, 480.035, 483.805, 489.107, 491.004, 497.101, 601.04, 945.602, 947.01, and 947.03, F.S.

This bill repeals ss. 464.0045 and 947.022, F.S.

E. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require the counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The following are comments by the Senate Committee on Gubernatorial Appointments and Confirmations: There are sections of 1st Eng./SB 712 that appear to conflict with other bills that have passed the Legislature or are currently under consideration before the Legislature, and passage of 1st Eng./SB 712 could adversely impact statutory revisions made in those other bills. It is recommended that those sections that appear to conflict with provision found in other bills be removed and the changes proposed in 1st Eng./SB 712 be amended onto the relevant bill.

The following are comments by the House Committee on Governmental Rules and Regulations: On April 14, 1999, Senator Meyers expressed support for SB 712 and emphasized his support regarding the subjection of the Secretary for the Agency for Health Care Administration (AHCA) to senate confirmation. Prior to SB 712, AHCA Secretaries have not had their appointments contingent on Senate confirmation.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The following are amendments passed by Gubernatorial Appointments and Confirmations:

Amendment 1. Requires the Director of the Agency for Health Care Administration to be confirmed by the Senate.

Amendment 2. Increases the membership of the Parole Commission from three to four.

The following amendment passed by the House Committee on Governmental Rules and Regulations on April 14, 1999:

Amendment 1. Ensures that the provisions of HB 712 do not take precedence if other conflicting legislation passes this legislative session. Without this amendment, the provisions of SB 712, if passed, would revert statutory language of legislation either passed or pending and nullify the original intentions of the passed or subsequent legislation.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

Staff Director:

Veronica P. Alvarez

David M. Greenbaum