

STORAGE NAME: h1721.frc
DATE: March 22, 2001

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1721

RELATING TO: Sale of Business Opportunities

SPONSOR(S): Fiscal Responsibility Council and Representative Dockery

TIED BILL(S):

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

- (1) FISCAL RESPONSIBILITY COUNCIL YEAS 20 NAYS 1
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill eliminates the requirement for sellers of business opportunities to file disclosure records with the Department of Agriculture and Consumer. It removes the Department from any duties and responsibilities relating to sales of business opportunities. The program is currently funded through an annual filing fee of \$300 for administration and enforcement costs.

The bill leaves in place various requirements on sellers of business opportunities, and retains current laws establishing private rights of action.

The change reflects budget reductions contained within the House Appropriations bill. Five full-time equivalent (FTE) positions are eliminated and spending authority of \$238,444 is reduced in the General Inspection Trust Fund in the Department of Agriculture and Consumer Services.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 559.805, F. S., requires that every seller of a business opportunity annually file with the Department of Agriculture and Consumer Services a copy of a disclosure statement prior to placing an advertisement or making any other representation designed to offer to, sell to, or solicit an offer to buy a business opportunity from a prospective purchaser in this state. The seller must update this filing by reporting material change in the required information within 30 days after the material change occurs.

The Department is required to collect from the seller an annual fee of \$300 for administration and enforcement costs. The Department handles approximately 1,413 filings per year. The Department monitors filers for violations of the statute, responds to complaints, and administers claims on surety bonds or letters of credit.

C. EFFECT OF PROPOSED CHANGES:

The bill removes the Department from any duties and responsibilities related to sellers of business opportunities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 599.802, F. S., to eliminate language related to franchise exemption for opportunity ventures and eliminates corresponding rule adoption by the Department.

Section 2 amends s. 559.803, F. S., to conform language to substantive changes.

Section 3 amends s. 559.807, F. S., to conform language to substantive changes.

Section 4 amends s. 559.813, F. S., to conform language to substantive changes.

Section 5 amends s. 559.815, F. S., to eliminate enforcement and remedies by the Department.

Section 6 repeals subsection 559.801(2), F. S., removing the Department from the definitions list; repeals s. 559.805, F. S., eliminating filing with the Department and disclosure of information; and

repeals subsections (2) and (8) of section 559.813, F. S., that allows the Department to enter an order imposing penalties and to make rules.

Section 7 provides an effective date upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>FY 2001-02</u>
Recurring General Inspection Trust Fund Filing Fees	(175,000)
2. <u>Expenditures:</u>	
Recurring Salaries and Benefits (5) FTE Expenses Total – General Inspection Trust Fund	(190,594) (47,850) (238,444)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None
2. Expenditures:
None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Sellers of business opportunities will no longer pay the annual fee.

D. FISCAL COMMENTS:

None

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties of municipalities to raise revenues.

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

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

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Staff Director:

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