

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1051 Succession to the Office of Governor
SPONSOR(S): Goodlette
TIED BILLS: **IDEN./SIM. BILLS:** SB 1592

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections	6 Y, 0 N	Mitchell	Randle
2) Procedures	25 Y, 2 N	Mitchell	Randle
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Florida Constitution provides for appointment by the Governor to fill the remainder of unexpired terms of vacant state offices, but if the office is elective, and the unexpired term is 28 months or more, the appointment is until the first Tuesday after the first Monday following the next general election. This general provision creates an ambiguity in light of the specific constitutional requirement that, to be "elected" a candidate for Lieutenant Governor must form a joint candidacy with a candidate for Governor. HB 1051 statutorily resolves the ambiguity, treating the office of Lieutenant Governor as appointive for purposes of filling the vacancy, unless the office of Governor is subsequently vacated.

Upon a vacancy in the office of Lieutenant Governor, HB 1051 provides that the Governor shall appoint a successor to serve for the remainder of the term. If, however, following an appointment, a vacancy in the office of Governor should occur and there are more than 28 months left in that term of office, electors shall choose a Governor and Lieutenant Governor at the next statewide general election.

The bill is effective upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1051.pc.doc
DATE: March 16, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Section 3, Article IV, Florida Constitution, provides:

Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve for the remainder of the term.

Following succession by the Lieutenant Governor to the office of Governor, succession is provided in section 14.055, Florida Statutes, which currently reads:

Upon vacancy in the office of Governor, the Lieutenant Governor shall become Governor. Upon vacancy in the office of Governor and in the office of Lieutenant Governor, the Secretary of State shall become Governor; or if the office of Secretary of State be vacant, then the Attorney General shall become Governor; or if the office of Attorney General be vacant, then the Comptroller shall become Governor; or if the office of Comptroller be vacant, then the Treasurer shall become Governor; or if the office of Treasurer be vacant, then the Commissioner of Education shall become Governor; or if the office of Commissioner of Education be vacant, then the Commissioner of Agriculture shall become Governor. A successor under this section shall serve for the remainder of the term and shall receive all the rights, privileges and emoluments of the Governor.

Representative Kottkamp has introduced legislation during the 2003 session (HB 739) to address the recent reorganization of cabinet offices and how succession to the office of Governor should now occur under section 14.055, Florida Statutes.

The Governor and Lieutenant Governor ran for election in November 2002 with the current term of office to expire in January 2007 (following a general election in November 2006). Governor Bush recently appointed Toni Jennings to replace Frank Brogan as Lieutenant Governor.

HB 1051 amends section 14.055, Florida Statutes, to provide that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor, to serve for the remainder of the term. If, however, following an appointment, a vacancy in the office of Governor should occur and there are more than 28 months left in that term of office, electors shall choose a Governor and Lieutenant Governor at the next general election.

Following appointment of Lieutenant Governor Jennings, if a vacancy occurred in the office of Governor and there were more than 28 months remaining in the Governor's term, HB 1051 would provide for the occurrence of two events:

1. Lieutenant Governor Jennings would succeed to the office of Governor (as contemplated by section 3, Article IV, Florida Constitution); and
2. an election for both the offices of the Governor and Lieutenant Governor would occur in 2004, two years prior to the normally scheduled gubernatorial election cycle.

C. SECTION DIRECTORY:

Section 1. Amends section 14.055, Florida Statutes, to provide that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor, to serve for the remainder of the term. If following an appointment, a vacancy in the office of Governor should occur, and there are more than 28 months left in that term of office, electors shall choose a Governor and Lieutenant Governor at the next general election.

Section 2. Provides that the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures: The bill may result in additional election costs to add a gubernatorial race to the statewide election that will take place in 2004.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other: HB 1051 appears to conflict with the provisions of section 3 (a), Article IV, Florida Constitution, which provides that the Lieutenant Governor if he or she succeeds to the office of Governor "shall serve for the remainder of the term." HB 1051 would require a successor in certain rare circumstances to run for election two years prior to the expiration of the term of office.

In addition, section 5, Article IV, Florida Constitution, provides for quadrennial election of Governor and Lieutenant Governor on a single slate, implying that they should be politically compatible and that the voters do not need to select their Lieutenant Governor separate and apart from their choice of Governor. Section 1(f), of Article IV, however, requires that appointment to a vacant elective office (other than Governor) for an unexpired term of more than 28 months shall expire at the next general election when a successor shall be chosen for the remainder of the term. If a court were to minimize the policy of political compatibility and emphasize the policy of election to fill longer unexpired terms, the bill's provision for appointment of the Lieutenant Governor for the remainder of the term may be seen to violate section 1(f). However, the Court may approve the appointment authorized in this bill if it determines that the joint candidacy of candidates for Governor and Lieutenant Governor makes the Lieutenant Governor an appointive office for purposes of section 1(f) (providing for the filling of a vacant appointive office for the remainder of the unexpired term).

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES