

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:

Background:

Currently the Division of Blind Services (Division) is a unit of the Department of Education. Direct services to clients are provided through three bureaus:

- Bureau of Braille and Talking Book Library Services: provides information and reading materials needed by Florida residents who are unable to use standard print.
- Bureau of Business Enterprises: licenses food-service vendors under the federal and state Randolph Sheppard acts.
- Bureau of Client Services and Program Support: includes the Vocational Rehabilitation (VR) Program, the Independent Living Adult Program (ILAP), the Children and Families Program, and the Blind Babies Program.

These programs are provided through 12 district offices, 4 satellite offices, and the Rehabilitation Center for the Blind, which is a residential facility offering a variety of services to clients.

The state office provides administrative, fiscal, and programmatic support to the district offices, the Rehabilitation Center, Community Rehabilitation Programs, and staff. The Division has 306 FTE's and served an estimated 55,000 individuals in FY 2001-02. Additionally, there is an Advisory Council for the Blind which performs a variety of responsibilities, such as assisting the Division in the planning and development of statewide rehabilitation programs and services, recommending improvements to the programs, advising the Division regarding its responsibilities under federal law; and assisting in the preparation of various documents required by federal law. Authorized by s. 413.011, F.S., it has 19 members, a majority of whom must be blind.

The Division receives both state and federal funds. The Division is slated to receive \$25,289,586 in federal funds in federal grant year 2002-03. The state must comply with specific federal regulations in order to receive federal funds.

Chapter 20, F.S., provides for the organizational structure of state government. Section 20.20.03(10) defines "commission" to mean, "unless otherwise required by the State Constitution, a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor."

Proposed Changes:

This bill creates the Florida Commission for the Blind (Commission) and provides for it to head the Division of Blind Services (Division). The Division will continue to be a part of the Department of Education, but the Department does not control, supervise, or direct the Division in any way. The bill names the Commission as the designated state agency and the Division as the designated state unit for purposes of compliance with the federal Rehabilitation Act of 1973.

The bill creates a nine-member commission; a majority of members must be blind or visually impaired. Commission members are appointed by the Governor and confirmed by the Senate. The bill prohibits members of the Commission from being employees of the Division and specifies terms for commissioners. The Commission is authorized to adopt rules.

The bill authorizes the Commission to hire an executive director, who is to be responsible for employing personnel of the Division and setting employees' compensation. Employees' status within the state personnel system will be unchanged from their current status. A level one-background screening is required of all Division employees.

The bill provides for the responsibilities of the Division as follows:

- To develop and carry out the state plan for vocational rehabilitation services for individuals who are blind.
- In conjunction with the Independent Living Council, to assist in developing a state plan for independent living services for individuals who are blind.
- To continue programs currently being implemented by the Division.
- To provide technical assistance on a variety of civil rights laws to individuals, local governments, a variety of state agencies, private not-for-profits, and other interested groups.
- To conduct a survey of client satisfaction as well as assume the duties of the advisory council, which are specified in federal law.
- To create and administer programs for the blind as is determined necessary.
- To publish an annual report.

Additionally, the bill deletes the requirement for the registry of the blind in the state. The bill also lists the principles upon which programs and activities are to be based.

The bill abolishes the Advisory Council for the Blind, authorizes the disclosure of exempt and confidential records to the Commission, provides the complaint resolution processes for use by clients of the Division, makes technical changes, and conforms references to the Commission and Division.

The bill exempts purchases of devices and technology for the blind from the requirements of state purchasing procedures. It also exempts the Division from the record-keeping requirements regarding property in state law.

In regard to budgeting, the bill provides that the executive director of the Division shall recommend a budget to the Commission for its approval; the Department of Education is to provide the Division's budget request to the Legislature without modification. The Division's budget must be a separate identifiable sum within the Department of Education's budget. Annual appropriations are to be released monthly or as necessary for funding client services.

The Division is exempt from state law such that it has authority to change the number of authorized positions without the approval of the Governor, is not required to submit a target budget request to the Legislature, and has flexibility to shift funds between budget categories on its own without submitting budget amendments.

The bill addresses the ownership of personal and real property by the Commission and the surplus and sale of such properties; it also requires that the funds received on the sale of properties shall be placed

in the Commission's grants and donations trust fund to be invested by the State Board of Administration.

The bill authorizes the organization and operation of a direct-support organization and provides for its membership and operation.

Finally, the bill removes the requirements for those soliciting funds on behalf of blind individuals to register with the Division.

C. SECTION DIRECTORY:

Section 1: Provides a popular name.

Section 2: Creates an unnumbered section of law to create the Florida Commission for the Blind (Commission), provide for membership of the Commission, provide for personnel, define powers and duties, and outline dispute resolution processes to be used.

Section 3: Amends s. 20.15, F.S., to revise references to the Department of Education.

Section 4: Amends s. 413.011, F.S., to provide the purpose and policy for the Division of Blind Services (Division), revise definitions, and delete provisions relating to the Advisory Council for the Blind.

Sections 5, 7, 10, and 12: Amend ss. 413.0115, 413.013, 413.051, and 413.092, F.S., to conform references to the Division.

Section 6: Amends 413.012, F.S., to provide for the disclosure of confidential records to the Commission.

Sections 7, 8, 9, 10, 11, and 12: Make technical amendments to ss. 413.013, 413.014, 413.041, 413.051, 413.091, and 413.092, F.S.

Section 13: Creates s. 413.093, F.S., providing processes and policies for budget requests.

Section 14: Creates s. 413.094, F.S., providing for management flexibility regarding implementing the budget.

Section 15: Creates 413.095, F.S., regarding title to and disposal of property and equipment.

Section 16: Creates an unnumbered section of law authorizing the Commission to organize and incorporate a direct-support organization.

Section 17: Provides for maintenance of the status of the Division's employees.

Section 18: Repeals ss. 413.061-.069, F.S., regarding the registration of solicitors on behalf of blind persons.

Section 19: Provides for an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: There will be no indirect cost rates charged on funds appropriated for the Division of Blind Services (Division), resulting in a larger number of dollars available for spending by the Division.

Since the nine-member Commission for the Blind (Commission) will be smaller than the current nineteen-member advisory council, the Commission will have lower expenditures for member travel, though this impact will be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

- D. FISCAL COMMENTS:** The new structure will need to comply with federal regulations to ensure the continued receipt of federal funds. Division staff has contacted the federal Rehabilitative Services Administration to determine whether the proposed structure complies with federal law but has not yet received a response.

The bill provides for the Commission to be provided its appropriation on a monthly basis. For the vast majority of government entities receiving funds, appropriations are provided on a quarterly basis.

The bill grants the Division of Blind Services (Division) great flexibility and independence in managing its funds by exempting it from key provisions of statute relating to target budget requests (s. 216.031, F.S.), approved budget requests (s. 216.181, F.S.), and authorized positions (216.262, F.S.). At its discretion and without requiring outside approval, the Division will be able to change the number of positions and move funds between any line items. This will result in much less Legislative control over the Division's spending and thus its provision of services to individuals in need. Given the volume of federal funds which the agency receives and the detailed federal requirements with which the Division must strictly comply, the lack of knowledge at present regarding the future leadership of the Division, and the major transition in general which the Division will be undergoing, stricter financial management controls may help ensure that funds are spent appropriately during the transition as well as instill an orientation toward sound financial management in the operations and culture of the new entity.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.
2. Other: Not applicable.

B. RULE-MAKING AUTHORITY: The bill grants rule-making authority to the Commission.

C. DRAFTING ISSUES OR OTHER COMMENTS: See Fiscal Comments, above.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on State Administration adopted a strike-all amendment on April 8, 2003. The strike-all amendment provided for the following:

- Rather than becoming an independent entity via a type 2 transfer from the Department of Education (DOE), the Division of Blind Services remains in the DOE but is not subject to the control, supervision, or direction of the DOE.
- The Commission's size is increased to nine members from seven.
- A deadline of July 15, 2003, for the gubernatorial appointments to be made is set.
- The authority for the Commission to contract out functions usually provided by state employees is deleted.
- The requirement that Division employees not be in the career service is deleted.