

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1687 w/CS Governmental Reorganization
SPONSOR(S): Zapata
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2528

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Commerce	14 Y, 0 N w/CS	McDonald	Whitfield
2) Local Government & Veterans' Affairs	12 Y, 0 N w/CS	Grayson	Highsmith-Smith
3) State Administration	6 Y, 0 N w/CS	Brazzell	Everhart
4) Finance & Tax			
5) Appropriations			

SUMMARY ANALYSIS

On January 7, 2003, the Department of State moved from the status of a cabinet agency to an executive agency. During the late summer and fall months of 2002, a select group of Governor's staff working with departmental staff reviewed the department's mission, programs, activities, and functions. This bill contains recommendations from that review.

Effective July 1, 2003, this bill abolishes the Department of State (DOS) and Department of Community Affairs (DCA) and creates the Department of State and Community Affairs (DSCA). DSCA is primarily composed of functions of those departments which are transferred by a type two transfer. Programs, functions, or activities which are transferred to other agencies include:

- International business partnerships, issuance of apostilles, and notaries functions.
- Civil legal assistance program.
- State energy program.
- Affordable Housing Catalyst Program and Affordable Housing Study Commission.
- Records storage program.
- Management of copyrights, patents, and trademarks held by the State of Florida.

Programs, functions and activities are also transferred to DSCA from other agencies: the Florida Recreation Development Assistance Program and federal recreational trails program from the Department of Environmental Protection and the Regional Rural Development Grants Program, Rural Community Development Revolving Loan Fund Program, and Office of Urban Opportunity from the Executive Office of the Governor.

The mission of DSCA is stated and the departmental structure is generally set forth. The following divisions of the department are specifically created: community assistance, community planning and growth management, corporations, elections, emergency management, historical and cultural resources, and library and information services. For administrative purposes, the Division of Emergency Management and the Florida Housing Finance Corporation are administratively housed in DSCA.

Reports are required to be presented to the Legislature and the Governor by October 15, 2003, regarding statutory and programmatic changes.

The fiscal impact of this bill is indeterminate. See Fiscal Comments.

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

STORAGE NAME: h1687e.sa.doc
DATE: April 23, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

I. Background

Constitutional Requirements for State Agencies

Article IV of the Florida Constitution provides the executive structure of state government. Section 6, Art. IV, State Constitution, provides a cap on the number of executive departments at 25, exclusive of those specifically provided for or authorized by the constitution. The Fish and Wildlife Conservation Commission, the Department of Veterans Affairs, and the Department of Elderly Affairs are specifically provided for in ss. 9, 11 and 12 of Art. IV, State Constitution.

Change of the Department of State from a Cabinet to an Executive Agency

Due to the adoption of Revision No. 8 to the State Constitution by the voters on November 3, 1998, the Secretary of State was no longer to be an elected constitutional officer or a member of the Cabinet after January 7, 2003. As a result of the passage of the amendment, then-Secretary of State Katherine Harris created a Constitutional Transition Task Force and assigned it the responsibility of analyzing various statutory functions of the Department of State and to recommend which functions it should continue to perform. In the 2000 Session of the Legislature, these recommendations were considered as well as others and incorporated into CS/SB 1194, 1st Engrossed, which passed and became law (CH 2000-258, Laws of Florida). The law maintains the Department of State and the Secretary of State as its head as well as the existing division structure and the responsibility of the official custodian of records to remain as the Secretary of State. Since the legislative action in 2000, the Legislature made one structural change to the Department of State with the transfer of the responsibilities of the Division of Licensing to the Department of Agriculture and Consumer Services.

Review by Executive Office of the Governor

The Governor appointed key members of his staff to work with the Department of State to review the department’s mission, programs, activities, and functions. According to presentations by staff from the Governor’s Office, the review team was guided by “principles of a smaller, more efficient government, maintenance of critical and essential government functions, elimination of duplication and overlap within and across agencies, and involvement of constituent groups in the discussions.”¹ The review began in late summer of 2002. Recommendations for merging the Departments of State and Community Affairs, sending some of their current functions or activities to other state agencies, bringing other activities and functions from other agencies into the new agency, and changes in funding levels and staffing were formulated. Some of the initial suggestions for transfers were changed or delayed,

¹ Presentation documents entitled “Department of State and Community Partnerships” provided to Tourism Subcommittee on February 4, 2003.

such as the transfer of the State Archives, State Museum, historical properties and Bureau of Archaeological Research.²

OPPAGA Reports on Department of State Programs

Library, Archives, and Information Program

In OPPAGA Report 99-05, *Justification Review: Library, Archives, and Information Program*, published in August 1999, the following conclusions and recommendations were made:

- The State Archives and Florida Collection are essential to preserve the history of the people and the state documents of Florida.
- The program's Records Center benefits state and local government agencies by supporting the cost-effective and efficient management of records. The program provides cost-effective records storage and microfilm services for local and state agencies and provides training and technical assistance to support the development and implementation of effective records management and archives programs statewide. The records management process also initiates the preservation of public records for the State Archives through its screening of records destruction requests.³
- Potential for privatizing the storage of state records was reviewed and the cost analysis used, which included future costs of increasing the capacity of the storage facility, concluded that the contracting cost would be greater than the cost of the state providing the service.⁴
- Grants administration, consultation, and network services provide services to communities, local libraries, local governments, and state agencies that would otherwise not be available.
- The State Library was seen as benefiting state employees by improving the efficiency of their research activities. Library research assistance, interlibrary loan system availability, and training on electronic tools were mentioned as being valuable to state employees and other users. The circulating collection was cited as changing its focus to concentrate more on state agency users and researchers. The report stated that opportunities existed to improve the bureau's collection development process and that steps could be taken to ensure that state library efforts were not duplicating the purchase of materials already contained in agency libraries.⁵
- The placement of Florida's program (Library, Archives and Information Services) under the Secretary of State, whose department also has responsibility for cultural affairs, appears appropriate and no compelling benefit to changing the organizational placement of the program within state government was found.⁶

Divisions of Historical Resources and Cultural Affairs

In OPPAGA Report 02-68, *Justification Review: Two Department of State Divisions Would Benefit Through Coordination and Grants Streamlining*, published in December 2002, the following conclusions and recommendations were made:

² The changes are noted in later documents and presentations on the reorganization proposal.

³ See OPPAGA report on pp. 11, 12, and 30-37.

⁴ OPPAGA also used the State Council on Competitive Government cost analysis methodology in its review. See OPPAGA Report, p. 13.

⁵ OPPAGA report on pp. 10 and 25-29.

⁶ OPPAGA report on p. 12.

- Cultural Affairs and Historical Resources programs are logically placed under the Secretary of State, who is Florida's designated chief cultural officer. The placement is consistent with the departmental mission.
- No compelling benefit, such as cost savings or increased efficiencies, was found which could be achieved from moving these programs and, thus, the activities should remain in the Department of State.⁷
- Florida is a national leader in its grant processes and is considered an innovator in developing financial support systems for cultural and historical resource development.
- The Division of Historical Resources has attained noteworthy accomplishments in its delivery of programs and services to Florida's citizens.
- The oversight of state-owned properties should be improved.
- The grant-making process could be streamlined by increased use of technology.
- The department needs to be more proactive in promoting and developing cultural and historical resources by developing a single strategic vision for cultural and historical resources development and increased flexibility in grant programs through reducing restrictions on grant requirements in law (cultural grants).⁸
- The department should merge the two divisions into a single administrative unit to facilitate coordination and implementation of a unified plan for cultural and historical resource development.⁹

II. Agencies, Programs, and Functions: Present Situation & Effect of Proposed Changes

DEPARTMENT OF STATE

Departmental Structure and Responsibilities:

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration. In FY 2002-03, DOS had 539 positions and a budget of \$158,379,638 (\$98,934,806 in general revenue and \$59,444,832 in trust fund).

The Department of State is charged with the responsibility for:

- Serving as the official custodian of records;
- Administering and enforcing the state election laws;
- Filing acts and papers of the Legislature and county ordinances;
- Filing all rules and regulations contained in the Florida Administrative Code and publishing and distributing proposed rules and regulations in the Florida Administrative Weekly for state agencies;
- Issuing commissions to all elected and appointed officials;
- Maintaining financial disclosures for all constitutional and state officers and specified employees;
- Qualifying all federal and state candidates;

⁷ OPPAGA Report No. 02-68, p. 5

⁸ OPPAGA Report, p. 12.

⁹ OPPAGA Report, p. 12.

- Serving as the ministerial filing agency that serves as the statewide repository for business entity filings and uniform business reports/annual reports, the statewide central filing office for judgment lien filings, and the statewide central registration office for fictitious names, trademarks and service marks;
- Preserving and promoting the state's cultural heritage and programs through cultural grant programs and promotional programs and implementing programs to gain international recognition on behalf of Florida artists and arts programs;
- Protecting, preserving, and promoting Florida's historical resources through encouraging identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida's historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage;
- Administering the statewide historic preservation plan and administering historic properties of the state, either directly or through management of contracts;
- Providing library, records management, and archival services at the state and local level; and,
- Enhancing and coordinating foreign affairs and diplomacy to foster global relationships for Florida.

Division of Corporations is a ministerial filing agency that serves as the statewide central repository for business entity filings and uniform business reports/annual reports, the statewide central filing office for judgment lien filings, and the statewide central registration office for fictitious names, trademarks and service marks. The division has two bureaus: Commercial Recording and Commercial Information Services. The division has 193 FTE and division funding of almost \$13 million in FY 2002-03 from the Corporations Trust Fund.

Funds collected by the division and deposited into the Corporations Trust Fund pay for the division and for many cultural and historical grants funded by the Department of State while the bulk of the money is deposited into the General Revenue Fund (more than \$142 million annually).

Division of Cultural Affairs is made up of the Office of the Director and Bureau of Grants Services. The division awards, administers, monitors, and evaluates cultural grant programs of the Department of State, as well as plans and implements programs designed to gain national and international recognition on behalf of Florida artists and arts organizations. The division also disseminates arts-related information and fosters the development of a receptive climate for the arts in Florida. There are 19 FTEs in the division. Funding for FY 2002-03 was \$28.1 million.

Division of Elections is diverse and oversees many different functions. The division is composed of the Director's office and three bureaus: Election Records, Voting System Certification, and Administrative Code and Weekly. There are 45 FTE and division funding in FY 2002-03 was \$21.0 million.

The Division of Elections administers and enforces the state election laws; files acts and papers of the Legislature and county ordinances; files all rules and regulations contained in the Florida Administrative Code; publishes and distributes proposed rules and regulations in the Florida Administrative Weekly for state agencies; issues formal advisory opinions; oversees the Florida Voter Registration Act; issues commissions to all elected and appointed officials; maintains financial disclosures for all constitutional and state officers and specified employees; and qualifies all federal and state candidates.

Division of Historical Resources is charged with encouraging identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida's historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage. The responsibilities related to historic preservation are not only governed by state law

but also by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).¹⁰ The division is composed of the Director's office and three bureaus: Archaeological Research, Historical Museums, and Historic Preservation. The division has 94 FTE and division funding in FY 2002-03 was \$29.3 million.

The division administers public information programs, the statewide historic preservation plan, the operation of historic sites and properties, and state and federal grants for historic preservation. Its duties also include the maintenance and operation of Florida's state historic museums, promotion and administration of the Florida Folklife Program, and administration of various archaeological research and preservation programs, including a historic marker program. Apart from the R.A. Gray Building where the Florida Museum of History and the division offices are housed, 63 other properties are assigned (leased) to the division to manage on behalf of the state. Only five of those are directly managed by the division, two more are not maintained by the division but the division has responsibility for maintaining exhibits, and the remainder are subleased to other entities.

Division of Library and Information Services provides library, records management, and archival services at the state and local level. Structurally, the division administers these services through three bureaus: Archives and Records Management, Library and Network Services, and Library Development. The division provides direct library services to state government, management services, technical assistance, education, financial aid, and cooperative services. Working in partnership with archivists, librarians, records managers, government officials, and citizens, the division seeks to ensure access to materials and information of past, present and future value to enable state government and local libraries and agencies to provide effective information services for the benefit of the people of Florida. The division has 120 FTEs with an appropriation of \$55.5 million, with approximately \$9 million of the total being funding for staff.

Effect of Proposed Changes:

Effective July 1, 2003, the bill transfers all programs, functions, and activities currently in DOS to DSCA by a type two transfer with the exception of the following, which will be transferred to the Office of Tourism, Trade and Economic Development (OTTED) in the Governor's Office:

- advocating international business partnerships services;
- issuance of apostilles; and
- notaries functions.

The bill creates divisions for corporations, elections, library and information services, and historical and cultural resources. This differs from the existing Department of State organizational structure only through the combining of two current program divisions, historical resources and cultural affairs, into one division of historical and cultural resources. The bill, however, does not indicate the complete structure of each division nor indicate what functions for which each will be responsible. Bureaus and other subunits of the department may be established by the secretary to promote efficient and effective operation of the department for the new Divisions of Historical and Cultural Affairs and Community Assistance.

DEPARTMENT OF COMMUNITY AFFAIRS

Departmental Structure and Responsibilities:

¹⁰ The federal law requires the state to have a State Historic Preservation Officer and a comprehensive statewide historic preservation plan that is approved by the Secretary of the Interior.

The Department of Community Affairs (DCA), created in s. 20.18, F.S., is composed of three divisions: Emergency Management, Housing and Community Development, and Community Planning. In FY 2002-03, DCA had 351 positions and an appropriation of \$740,414,052 (\$13,588,435 in general revenue and \$726,825,617 in trust fund). The Department also houses the Florida Communities Trust which provides grants to communities for parks, greenways and natural resource protection. The Trust is funded by the Florida Forever Program. Its FY 2002-03 appropriation was \$67.2 million, which is included in the DCA appropriation figures cited above.

The Department of Community Affairs is charged with the responsibility for:

- Overseeing the state's growth management program;
- Emergency management mitigation and recovery;
- Housing and community development; and
- The state's land purchase program.

Division of Emergency Management is responsible for the coordination of disaster preparedness, response, recovery, and mitigation programs for the state. The Division maintains the State Emergency Operations Center and State Warning Point facilities.

Division of Community Planning administers the following programs authorized under Chapter 163, Part II, and Chapter 380, F.S.: comprehensive planning, evaluation and appraisal reports, optional sector plans, the certification program, the rural lands stewardship program, coordinated school planning, integrated land use and water supply planning, interlocal service delivery and annexation reports, developments of regional impact program, areas of critical state concern, Florida Quality Developments, marina siting, and airport master plans.

Division of Housing and Community Development provides assistance and grant funding (much of which is federal dollars) to local governments in identifying programs and services available to residents and local governments for individual and neighborhood improvements.¹¹

Affordable Housing Catalyst Program (Catalyst Program) in the Division of Housing and Community Development provides local governments and community based organizations with specialized technical assistance to implement the HOME Investment Partnerships Program (HOME), the State Housing Initiatives Partnerships (SHIP) Program and other affordable housing programs. Technical assistance and training are offered by the Catalyst Program in the development of affordable housing programs, the development of public/private partnerships, assist in the development of Local Housing Assistance Plans, implementing regulatory reforms, project financing, leveraging, guidance on achieving state and federal compliance, and project completion. On-site technical assistance visits and workshop training sessions are available. The SHIP and HOME programs are administered by the Florida Housing Finance Corporation.

Additionally, DCA has numerous statutory boards, commissions and councils under its purview, such as the Affordable Housing Study Commission, Community Development Block Grant Advisory Council, Clean Fuel Florida Advisory Board, Florida Building Codes Commission, Florida Communities Trust Governing Board, Florida Housing Finance Corporation Board, and Handicapped Accessibility Advisory Council.

Affordable Housing Study Commission evaluates affordable housing programs for persons with low to moderate incomes. Each year the Commission makes public policy recommendations to the Governor

¹¹Grants through the division: Community Development Block Grant Program, Section 108 Loans, Community Services Block Grant Program, Community Services Block Grant Program – Farmworkers, Low-Income Home Energy Assistance Program, Weatherization Assistance Program-Low Income Home Energy Assistance Program; Weatherization, Low-Income Home Emergency Repair Program, and Energy Projects. In FY 02-03, \$70.7 million was awarded in grants.

and Legislature to stimulate community development and revitalization and to promote production, preservation, and maintenance of decent affordable housing for all Floridians. The Commission meets approximately 5 times per year, and meetings are open to the public. The Governor appoints 21 citizens representing various interests to the Affordable Housing Study Commission for 4 year terms. The Commission is staffed by the DCA, Division of Housing and Community Development.

Effect of Proposed Changes:

Effective July 1, 2003, the bill transfers all programs, functions, and activities currently in DCA to DSCA with the exception of the state energy program, which is transferred to the Department of Environmental Protection; the Affordable Housing Catalyst Program and the Affordable Housing Study Commission, which are transferred to the Florida Housing Finance Corporation; and the civil legal assistance program which is transferred to the Department of Legal Affairs. The Florida Housing Finance Corporation and the Division of Emergency Management are to be administratively housed in DSCA.

The civil litigation program that is being transferred to the Department of Legal Affairs was established by Chapter 2002-288, Laws of Florida, placed under DCA, and was not funded. The stated intent of the Act creating the program is to “establish an administrative framework whereby public funds may be used in an effective and efficient manner to enhance the availability of civil legal assistance to the poor in this state.” Funds received through the Act may be used to secure the legal rights of eligible clients relating to family law, juvenile law, entitlements to federal government benefits, protections from domestic violence, elder and child abuse, and immigration.¹²

The bill does create divisions for community planning and growth management and community assistance. This differs from the existing DCA divisional titles with the exception of emergency management, which is housed in the DSCA for administrative purposes. Bureaus and other subunits of the department may be established by the secretary to promote efficient and effective operation of the department for the new Divisions of Historical and Cultural Affairs and Community Assistance.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Departmental Structure and Responsibilities:

The Department of Environmental Protection is an agency that has responsibility for many diverse areas. The Department is composed of several divisions, including State Lands, Recreation and Parks, Resource Assessment, Water Resource Management, Air Resource Management, Waste Management, and Law Enforcement and the Offices of Greenways and Trails and Coastal and Aquatic Managed Areas.

Florida Recreation Development Assistance Program (FRDAP) is a statutorily created competitive grant program which provides grants for acquisition or development of land for public outdoor recreation use or to construct or renovate recreational trails. The Grant Section within the Division of Recreation and Parks is responsible for administering all aspects of the Florida Recreation Development Assistance Program. The Grant Section serves as liaison to all local governmental agencies. In FY 2002-03, \$27 million was appropriated for FRDAP and there were 218 awards. According to the Director of the Division of Parks and Recreations, each staff handles 220 projects.

Federal Recreational Trails Program is a federally funded competitive program which provides grants for projects to construct, renovate or maintain recreational trails, trailhead and trailside facilities or trail education projects. A match is required of the local government, state or federal agency or non-profit sponsor. The Department of Environmental Protection administers the program in coordination with the

¹² Analysis of Council Substitute for HB 491 (Chapter 2002-288, LOF)

U.S. Department of Transportation, Federal Highway Administration. The integration of the Recreational Trails Program into the Office of Greenways & Trails' implementation of the statewide greenways and trails plan has gained national recognition and has been cited as a model. In 2003, Florida received \$1,656,895. The amount of money received is based on an allocation of off-road vehicle fuel taxes collected by the federal government.

Effect of Proposed Changes:

Effective July 1, 2003, the Department of Environmental Protection is to have the state energy program under DCA transferred to it while the two grant programs described above are to be transferred to DSCA. Programmatic placement of the grants is not indicated by the legislation.

**OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT
(EXECUTIVE OFFICE OF THE GOVERNOR)**

Structure and Responsibilities:

The Office of Tourism, Trade and Economic Development (OTTED) serves as the executive branch agency charged with promoting economic development, tourism, and international trade. The primary statutory and functional responsibilities of OTTED are formulating economic opportunity policies and strategies; overseeing five public private-partnerships through contract management; providing administrative oversight to the Office of Film and Entertainment and the Office of Urban Opportunity (Front Porch); administering several economic development programs and advocacy activities housed with the Governor's Office, e.g., rural economic development, managing community development programs, and serving as lead agency for the expedited permit process.

OTTED has a direct staff of 13 with a staff budget of \$1,526,485 in FY 02-03. Other staff associated with OTTED are the Office of Film and Entertainment (4 FTE) with a staff budget of \$290,034 in FY 02-03 and the Office of Urban Opportunities (2 FTE) with a staff budget of \$134,588 in FY 02-03.

Regional Rural Development Grants Program (ss. 14.2015(2)(f) and 288.018, F.S.) was created to assist regional economic development organizations serving rural communities. OTTED contracts with Enterprise Florida for application review and contract administration. OTTED determines grant awards. In FY 2002-03, \$400,000 was appropriated to fund this program.

Rural Community Development Revolving Loan Program (s. 288.065, F.S.) was created to promote the economic viability of rural communities and create jobs for residents of Florida's rural areas by leveraging the use of existing federal, state, and local financial resources. This program provides local governments with access to financial assistance through low-interest long-term loans. Since its inception in 1996, \$5.6 million has been appropriated for this loan program and 12 loans totaling \$3,379,227 have closed. OTTED contracts with Enterprise Florida for application review.

Office of Urban Opportunity (Front Porch) directs the Front Porch Florida initiative, which is to improve the economic viability of distressed urban neighborhoods through promoting bottoms-up, community-based planning and problem-solving which will lead to the creation of economic opportunities for citizens of these communities. Twenty front porch communities have been established in Florida.

International Affairs - In the Fall of 2002, through a Memorandum of Agreement (MOA), OTTED assumed oversight of the Office of International Affairs in the Department of State. This Office has responsibility for consular operations, sister city/sister state programs, Free Trade Area of the Americas, Governor's Gulf States Accord, and other international liaison responsibilities. The program staff of 10 and a program and staff budget of over \$3 million physically remained in the Department of State; however, activities and use of funds were governed by OTTED.

Effect of Proposed Changes:

Effective July 1, 2003, the bill transfers the responsibilities for advocating business partnerships under ss. 288.809 and 288.816, F.S., issuance of apostilles under s. 15.16(8), F.S., and the notaries functions authorized in chapters 117 and 118, F.S., from the Department of State to OTTED and transfers the Rural Economic Development Grants Program, the Rural Community Development Revolving Loan Fund Program, and the Office of Urban Opportunity to the Department of State and Community Affairs.

DEPARTMENT OF MANAGEMENT SERVICES

Departmental Structure and Responsibilities:

The Department of Management Service (DMS) is the administrative arm of state government. DMS consolidates the state's purchasing power for buying commodities and services and establishes rules and guidelines to ensure a fair, competitive procurement process. It is the central entity for the construction, operation, maintenance, and security of state-owned facilities. It provides telecommunications services to state and local governments and oversees state human resources administration. DMS also administers the statewide government employee retirement system and monitors the actuarial soundness of local government retirement systems.

Effect of Proposed Changes:

Effective July 1, 2003, the bill transfers to the Department of Management Services the records storage program from the Department of State and the management of copyrights, patents, and trademarks held by the State of Florida.

DEPARTMENT OF STATE AND COMMUNITY AFFAIRS

Effect of Proposed Changes:

Effective July 1, 2003, the bill creates the Department of State and Community Affairs (DSCA), which is primarily composed of most functions of the Department of State (DOS) and the Department of Community Affairs (DCA), transferred to DSCA by a type two transfer. However, the following programs, functions, or activities are instead transferred to other agencies:

- Advocating international business partnerships services; issuance of apostilles; and notaries functions (*Transferred to Executive Office of the Governor*);
- Civil legal assistance program (*Transferred to Department of Law Enforcement*);
- State energy program (*Transferred to DEP*);
- Affordable Housing Catalyst Program and Affordable Housing Study Commission (*Transferred to the Florida Housing Finance Corporation that is administratively housed in DSCA*); and
- Records storage program and the management of the State of Florida's copyrights, patents, and trademarks (*Transferred to the Department of Management Services*).

Programs, functions and activities are also transferred to DSCA from other agencies that were never a part of either DCA or DOS:

- Florida Recreation Development Assistance Program and federal recreational trails program;
- Regional Rural Development Grants Program;
- Rural Community Development Revolving Loan Fund Program; and

- Office of Urban Opportunity (Front Porch).

The mission of DSCA is stated in the bill and direction is given as to what is to be done, at a minimum, by the department to meet its multifaceted mission.

The departmental structure is generally set forth. The following divisions of DSCA are specifically created: community assistance, community planning and growth management, corporations, elections, emergency management, historical and cultural resources, and library and information services. Bureaus and other subunits of the department may be established by the secretary to promote efficient and effective operation of the department for the new Divisions of Historical and Cultural Affairs and Community Assistance. Additionally, for administrative purposes, the Division of Emergency Management and the Florida Housing Finance Corporation are housed in DSCA.

The Secretary of State is to serve as the secretary of the new department without having to be reappointed or reconfirmed. The secretary of DSCA is to be known as the Secretary of State.

Departments with programs, functions, and activities transferred to or from them by the act are required to meet with constituent groups and to recommend any needed statutory changes to the Governor, President of the Senate, and Speaker of the House of Representatives by October 15, 2003.

TYPE TWO TRANSFER

Two methods of executive branch reorganization are addressed in s. 20.06, F.S. This bill provides for the reorganization of the Department of State and the Department of Community Affairs by a Type Two Transfer pursuant to s. 20.06(1), F.S. In a type two transfer, agencies or parts thereof are merged. All the statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transfer to the receiving agency. Additionally, funds must be segregated in such a manner that the relation between program and revenue source as provided by law is retained. Finally, unless otherwise provided by law, the administrative rules of the agency in existence prior to the transfer remain in effect until specifically changed in the manner provided by law.

Conversely, a type one transfer is a transfer intact of an existing agency or department so that the agency becomes a unit of another agency or department.

C. SECTION DIRECTORY:

Section 1. Creates s. 20.101, F.S., creating the Department of State and Community Affairs; provides mission of department; provides for appointment and confirmation of department secretary; specifies divisions; provides other structural and operational direction; provides that the director of Emergency Management shall be appointed by the Governor.

Section 2. Repeals ss. 20.10 and 20.18, F.S., relating to the Department of State and the Department of Community Affairs, respectively.

Section 3. Provides for the transfer of programs, functions, activities, powers, duties, rules and records, personnel, property, and unexpended balances among certain state agencies by a type two transfer, as defined in s. 20.06(2), F.S.

Section 4. Provides that the Secretary of State shall become the Secretary of DSCA without further appointment or confirmation and will retain the title Secretary of State.

Section 5. Provides transitional provisions for FY 2003-2004.

Section 6. Requires reports to Governor and Legislature by October 15, 2003.

Section 7. Provides for continued operation of programs and prohibits substantive programmatic changes by rule prior to July 1, 2004.

Section 8. Amends s. 11.011, F.S., to conform to the agency name change.

Section 9. Amends s. 11.021, F.S., to conform to the agency name change.

Section 10. Amends s. 11.03(2), F.S., to conform to the agency name change.

Section 11. Amends ss. 11.07(1) and (3), F.S., to conform to the agency name change.

Section 12. Amends s. 15.01, F.S., to conform to the agency name change.

Section 13. Amends s. 15.02, F.S., to conform to the agency name change.

Section 14. Amends ss. 15.03(2) and (3), F.S., to conform to the agency name change.

Section 15. Amends s. 15.07, F.S., to conform to the agency name change.

Section 16. Amends s. 15.155, F.S., to conform to the agency name change.

Sections 17 and 18. Amends s. 257.36, F.S., and creates s. 257.362, F.S., to create a separate records storage program.

Section 19. Directs the Division of Statutory Revision to prepare a reviser's bill for the 2004 Legislative Session to conform the Florida Statutes to the organizational changes made by this act.

Section 20. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The fiscal impact of the creation of the new department and the impact of transfers of functions and programs dictated by the bill is difficult to assess. Governor's Office staff indicates that there would be some savings through reduction in the size of the fiscal and other administrative offices when the two agencies are combined. In earlier presentations on the merger proposal presented to legislative committees, costs savings were estimated by Governor's Office staff to be approximately \$21 million, assuming the reductions in staffing proposed for several programmatic areas as well as administration. There would be some costs associated with the merger in the form of moving expenses, revisions to web pages, letterhead, etc., but these costs are indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

On July 1, 2004, subject to specific appropriations in the 2004-2005 General Appropriations Act sufficient to implement the creation of the Department of State and Community Affairs and to accomplish the associated transfers, rules are transferred to DSCA from existing agencies by a type two transfer and broad authority is given to the agency regarding implementation of programs and functions transferred. Rules are also transferred by a type two transfer to other agencies receiving programs, functions, or activities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Committee on Commerce Meeting of March 31, 2003

On March 31, 2003, the Committee on Commerce reported HB 1687 favorably with a committee substitute which differs from the original bill in the following ways:

- Removes the declaration of policy of the Legislature which provides broad statements concerning some segments of departmental responsibility but not all that are transferred by the bill.
- Provides that the creation of the new department and any transfers of programs, functions, or activities delineated in the bill shall take effect July 1, 2004, subject to specific appropriations in the 2004-2005 General Appropriations Act sufficient to implement the creation of the department and to accomplish the associated transfers.
- Changes the name of the new department from the Department of State and Community Partnerships to the Department of State and Community Affairs.
- Provides that the secretary of the new department shall be known as the Secretary of State.
- Provides the departmental mission and some actions, at a minimum, required to accomplish the multifaceted mission.

- Does not exempt the new department from departmental structures under Chapter 20, F.S.
- Instead of providing legislative intent to give flexibility to the secretary to organize the department however he or she determines appropriate to promote efficiency and accountability within six primary policy and administrative functional areas, the committee substitute provides more definitive departmental structure through the establishment of 6 divisions, provides for the appointment of division directors, provides for the appointment of deputy and assistant secretaries as necessary to fulfill statutory obligations; provides that units under the division level may be established by the secretary as deemed necessary to promote efficient and effective operation and necessary to carry out federal and state law; and provides direction on appointment of directors or executive directors of commissions, councils, etc.
- Provides that the Division of Emergency Management is not administratively housed in the new department but is, in fact, a division that is part of the department.
- Administratively houses only the Florida Housing Finance Corporation in the new department.
- Does not transfer any responsibilities, programs, functions, or activities to the Department of Management Services but keeps those with the new department.
- Continues all other transfers by a type two transfer which is an intact transfer by its nature but adds the word "intact" as added emphasis.
- Does not provide transitional provisions nor requirement for the Division of Statutory Revision to develop legislation.
- Requires that agencies to be impacted by transfers in the act shall prepare reports analyzing the transfers and make recommendations to the Governor and Legislature concerning any statutory, budgetary, or administrative changes needed to implement the reorganization. Due December 1, 2003, the reports are required to involve input from constituency groups and to include their comments.
- Provides that the bill takes effect July 1, 2003, except as otherwise noted.

Committee on Local Government & Veterans' Affairs Meeting of April 10, 2003

The Committee on Local Government & Veterans' Affairs, at its meeting on April 10, 2003, adopted three amendments and reported the bill favorably with a committee substitute.

The Committee Substitute changes the bill as reported by the Committee on Commerce as follows:

- Clarifies the mission of the agency in areas of growth management, historic, cultural and artistic activities, and citizen participation.
- Transfers the records management function to the Department of Management Services, to include the Florida Administrative Weekly, and the Florida Administrative Code and retaining the function of official custodian of state records with the newly created Department of State and Community Affairs (DSCA).
- Deletes the Division of Administration from the organizational structure of the new Department, as the functions will be combined within the Secretary's Office.
- Provides that the Division of Emergency Management and the Florida Housing Finance Corporation will be housed at DSCA for administrative purposes.
- Provides that the Director of the Division of Emergency Management will be appointed by the Governor, with confirmation by the Senate.
- Provides that the act will take effect on July 1, 2003.
- Specifies that no substantive programmatic rule changes will occur in advance of completion of the 2004 Legislative Session.

- Requires a joint report from the affected agencies to the Governor, the Speaker of the House, and the President of the Senate by October 15, 2003, provides that the report will include recommended statutory changes, and requires DSCA to meet with specified general areas of constituent groups to gather input for consideration as part of the final report.

Committee on State Administration Meeting of April 23, 2003

The Committee on State Administration, at its meeting on April 10, 2003, adopted a strike-all amendment and reported the bill favorably with a committee substitute.

- It keeps the responsibility for the Florida Administrative Weekly and Florida Administrative Code with the new department rather than transferring it to the Department of Management Services.
- It clarifies that only the records storage function will transfer to the Department of Management Services. It amends current law about records management and creates a new section of law that governs records storage.
- It transfers the domestic notaries program to the Governor's Office, in addition to the international notaries program, which the bill had already provided for the transfer. This corrects an inadvertent omission.
- It provides that the report due on October 15, 2003, will also include an administrative overview of the new department.
- Finally, it addresses the first transitional year for the new department. It provides legislative intent that programs are to continue unchanged and provides that structural changes will only be made to divisions created from mergers of other divisions. It also makes technical corrections to language about the transition.