

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 666

SPONSOR: Governmental Oversight & Productivity Committee and Senator Pruitt

SUBJECT: Environmental Control

DATE: April 9, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/1 amendment</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
3.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
4.	_____	_____	<u>ATD</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill replaces Keep Florida Beautiful, Inc., with the Clean Florida Commission, provides the membership and duties of the commission, and moves the control of the Wildflower Advisory Council from Keep Florida Beautiful, Inc., to the Department of Agriculture and Consumer Services. Creates the Florida Wildflower Advisory Council in the Department of Agriculture and Consumer Services.

This bill substantially amends ss. 403.4131, 403.41315, 403.709, and 320.08058, F.S.

II. Present Situation:

A. Organizational Structure of the Executive Branch of State Government

Chapter 20, F.S., provides for the organizational structure of the executive branch of government. The chapter reiterates the doctrine of the separation of powers within state government among the legislative, executive, and judicial branches of government.¹

Section 20.02, F.S., states:

. . . The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any of the

¹ Article II, s. 3 of the State Constitution provides: "The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein."

policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

A state agency, such as a department, is a creature of statute and, as such, it has only those rights and privileges given to it by the Legislature in statute.² A department is created in the executive branch and, therefore, is subject to the administrative control of an executive officer who is appointed by, and serves at the pleasure of, the Governor or a Cabinet officer. Nevertheless, the powers and duties which the department is authorized to execute are delegated by the Legislature:

An agency has only such power as expressly or by necessary implication is granted by legislative enactment. An agency may not increase its own jurisdiction and, as a creature of statute, has no common law jurisdiction or inherent power such as might reside in, for example, a court of general jurisdiction. When acting outside the scope of its delegated authority, an agency acts illegally and is subject to the jurisdiction of the courts when necessary to prevent encroachment on the rights individuals.³

Section 20.02, F.S., requires agencies that compose the executive branch to be consolidated into no more than 25 departments, exclusive of those specifically provided for or authorized in the State Constitution. The agencies in the executive branch should be integrated into one of the departments of the executive branch to achieve maximum efficiency and effectiveness.⁴

Section 20.04, F.S., provides the structure of the executive branch of state government. The department is the principal administrative unit of the executive branch.⁵ The principal unit of the department is the division, which may be further subdivided into bureaus.⁶ A bureau may be further divided into “sections” and “subsections.” Section 20.04, F.S., specifically authorizes departments to combine these various office subdivisions for field operations.

Section 20.04(3), F.S., specifically exempts the Department of Financial Services, the Department of Children and Family Services, the Department of Corrections, the Department of Management Services, the Department of Revenue, and the Department of Transportation from the standard organizational structure for executive branch departments that is established in that subsection.

Subsection 20.04(7)(a), F.S., explicitly forbids department heads from reallocating duties and functions specifically assigned by law to a specific unit of a department, unless otherwise

² *Seaside Properties, Inc., v. State Road Department*, 190 So.2d 391 (3rd DCA 1966).

³ *Lee v. Division of Florida Land Sales and Condominiums*, 474 So.2d 282 (5th DCA 1985).

⁴ Article IV, s. 6 of the State Constitution states: All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by serving at the pleasure of the governor, except: (a) when provided by law, confirmation by the senate or the approval of three members of the cabinet shall be required for appointment to or removal from any designated statutory office; (b) boards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate departments and their members appointed for fixed terms, subject to removal only for cause.

⁵ Section 20.04(1), F.S.

⁶ Section 20.04(3), F.S.

authorized by law. Functions or agencies assigned generally to a department without specific designation to a unit of a department may be allocated and reallocated to a unit at the discretion of the agency head.

Further, an agency head is authorized to recommend the establishment of additional divisions, bureaus, sections, and subsections, within the limitations of the organizational structure provided in ch. 20, F.S., to promote efficient and effective operation of a department.

Section 20.04(7), F.S., permits new bureaus, sections, and subsections to be initiated by a department and established as recommended by the Department of Management Services and approved by the Executive Office of the Governor or as established by specific statutory enactment. The subsection explicitly limits initiation of new divisions and sub-units for the Department of Children and Family Services, the Department of Corrections, and the Department of Transportation except by specific statutory enactment.

Section 20.03(10), F.S., defines “commission” to mean, unless otherwise provided in 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.”

B. Advisory Bodies, Commissions, and Boards

Section 20.052, F.S., establishes some parameters for the creation of advisory bodies, commissions and boards.⁷ That section requires that such an entity:

- i. May be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.
- ii. Must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose.
- iii. Keep the Legislature and the public informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies, commissions, boards of trustees, and other collegial bodies established as adjuncts to executive agencies.

Section 20.052(4), F.S., states that an advisory body, commission, board of trustees, and other collegial body may not be created or reestablished unless:

⁷ This provision is not, however, binding on the Legislature. As the Florida Supreme Court has ruled in a series of cases, the most recent of which is *Neu v. Miami Herald Publishing Company*, 462 So.2d 821 (Fla. 1985), one legislative body cannot bind a future Legislature to an obligation. In *Neu*, a case addressing the Public Meetings Law, the court stated “A legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law.” *See, Neu v. Miami Herald Publishing Company*, 462 So.2d 821, 824 (Fla. 1985). In an earlier case reviewing a challenge to establishment of geographic municipal boundaries, the court stated that, “[t]he Legislature cannot prohibit a future Legislature by proper enactment changing boundaries which it [the earlier Legislature] established” *Kirklands v. Town of Bradley*, 139 So.144, 145 (Fla. 1932).

- < It meets a statutorily defined purpose.
- < Its powers and responsibilities conform with the definitions for governmental units in s. 20.03.
- < Its members, unless expressly provided in the State Constitution, are appointed for 4-year staggered terms; and
- < Its members, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

Section 20.052(5), F.S., also requires that private citizen members of a commission or board of trustees that is adjunct to an executive agency must be appointed by the Governor unless otherwise provided by law, must be confirmed by the Senate, and must be subject to the dual-office holding prohibition provision of Art. II, of the State Constitution.

Section 20.052(5)(c), F.S., provides that unless an exemption is otherwise specifically provided by law, all meetings of these types of bodies are public meetings under s. 286.011, F.S., and that minutes, including a record of all votes cast, must be maintained for all meetings.

If such an entity is abolished, its records must be appropriately stored within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The entity is expressly prohibited from performing any activities after the effective date of its abolition. The section does not, however, affect the right to institute or prosecute any cause of action by or against an abolished entity if the cause of action accrued before the date it was abolished. Any cause of action pending on the date the entity is abolished or instituted thereafter must be prosecuted or defended in the name of the state by the Department of Legal Affairs.

C. Reorganization and Methods of Transfer

Section 20.02(3), F.S., contemplates the regular review of agency organizational structures to maintain agency efficiency:

Structural reorganization must be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and coordination of existing programs in response to public needs.

Management and coordination of state services is to be improved and overlapping activities eliminated.⁸ Further, s. 20.02(4), F.S., requires departments to be organized along functional or program lines.

Section 20.06, F.S., establishes two “shorthand” methods of facilitating the reorganization of the executive branch. These methods of transferring departments, units of departments and programs are specifically stated not to affect the validity of any judicial or administrative proceeding pending on the day of the transfer. Furthermore, the agency which receives the powers, duties, and functions relating to the pending proceeding must be substituted as the party in interest.

⁸ Section 20.02(6), F.S.

D. Keep Florida Beautiful, Inc.

Keep Florida Beautiful, Inc., is a registered not-for-profit 501(c)(3) corporation, and is a state affiliate of Keep America Beautiful, Inc. Currently, Keep Florida Beautiful, Inc. (KFB), coordinates the statewide litter campaign and operates as the grassroots arm of the state's effort and serves as an umbrella organization for volunteer-based community programs. Section 403.4131, F.S., further provides that KFB shall be dedicated to helping Florida and its local communities solve solid waste problems, to developing and implementing a sustained litter prevention campaign, and to act as a working public-private partnership in helping to implement the state's Solid Waste Management Act.

KFB is governed by a volunteer Board of Directors representing government, business and industry, environmental organizations, and civic and professional organizations. On November 20, 2002, at Keep America Beautiful's 49th National Conference in Washington, D.C., Florida was one of eight states that received Gold Honors for achieving the highest level of compliance for Keep America Beautiful State Affiliates. This award recognizes Keep America Beautiful Affiliates who have successfully initiated the Keep America Beautiful State Affiliate Guidelines to promote the Keep America Beautiful mission statewide and offer program support to local affiliates.

There are approximately 42 local affiliates in Florida that are associated with Keep America Beautiful, Inc. These are certified community affiliates that operate at the local level to leverage public and private dollars and coordinate the time and efforts of local volunteers. According to information from Keep America Beautiful, Inc., the local affiliates are returning an average of \$10 to their communities in the form of measurable benefits for every \$1 of government funds invested in that local affiliate program.

Prior to 1993, there also existed a Clean Florida Commission. This commission was created within the Department of Transportation and consisted of the following members or their designees:

- The Secretary of Environmental Regulation (chairman);
- The Secretary of Transportation;
- The Executive Director of the Department of Natural Resources; and
- The Secretary of Commerce.

The Clean Florida Commission had the authority to appoint an executive director and other staff to carry out the purpose of litter prevention in the state. In 1993, the Legislature placed the litter prevention duties and responsibilities with KFB and abolished the Clean Florida Commission.

Pursuant to s. 403.709, F.S., up to 4.5 percent of the annual revenues from the waste tire fees deposited in the Solid Waste Management Trust Fund are to be used for funding to the Department of Transportation for litter prevention and control programs coordinated by KFB. In FY 2002-2003, \$1.1 million was transferred from the Solid Waste Management Trust Fund to the Department of Transportation for the Adopt-a-Highway Program. Through this program, \$850,000 was provided in the form of grants to local affiliates in the Certified Keep America

Beautiful System Grant Program. Of the amount transferred, \$150,000 was to be used to fund the State Litter Prevention Program and Keep Florida Beautiful, Inc.

In 1999, the Legislature authorized the issuance of a Florida Wildflower License Plate. Section 320.08058, F.S., provides that the annual use fees shall be distributed to the Wildflower Account established by Keep Florida Beautiful, Inc. The proceeds must be used to establish native Florida wildflower research programs, wildflower educational programs, and wildflower grant programs to municipal, county, and community-based groups in the state. A maximum of 10 percent of the proceeds from the sale of Florida Wildflower License Plates may be used for administrative costs.

Section 403.4131, F.S., creates within Keep Florida Beautiful, Inc., the Wildflower Advisory Council with the power to oversee the expenditure of the Wildflower Account. The council consists of a maximum of nine members. Members of the council must include a representative from the University of Florida Institute of Food and Agricultural Sciences, the Florida Department of Transportation, the Department of Environmental Protection, the Florida League of Cities, and the Florida Association of Counties. Other members may include representatives from the Florida Federation of Garden Clubs, Inc., Think Beauty Foundation, the Florida Chapter of the American Society of Landscape Architects, Inc., and a representative of the Master Gardener's Program.

III. Effect of Proposed Changes:

Section 403.4131, F.S., is amended to replace Keep Florida Beautiful, Inc. with the Clean Florida Commission. As provided in s. 403.709(4), F.S., the commission would be funded from the Solid Waste Management Trust Fund. Up to 4.5 percent of the annual revenues in the Solid Waste Management Trust Fund which are derived from the Waste Tire Fees would be used by the Clean Florida Commission for litter prevention and control programs. Currently, this amount is transferred to the Department of Transportation to be used for the Adopt-a-Highway program and to provide litter grants to the local Keep America Beautiful affiliates.

The Clean Florida Commission is created within the Department of Community Affairs and shall coordinate the statewide litter campaign involving state agencies, local governments, local organizations, and individuals. The commission will serve as the umbrella organization for volunteer-based community programs. The commission is authorized to enter into such contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as it determines are necessary, expedient, or incidental to the performance of its duties or the execution of its powers. The commission may accept gifts, grants, bequests, loans, and endowments for purposes not inconsistent with its responsibilities.

The commission consists of the following members:

- The Secretary of Environmental Protection or the secretary's designee.
- The Secretary of Transportation or the secretary's designee.
- The Commissioner of Education or the commissioner's designee.
- The Commissioner of Agriculture or the commissioner's designee.

- The Secretary of Community Affairs or the secretary's designee, who shall serve as chairman.
- Any additional member from interested organizations who are appointed by unanimous consent by the five named members.

The bill provides the commission with the following powers and duties:

- To appoint an executive director, who may employ such other administrative and clerical staff as are necessary to carry out the purpose of litter prevention in Florida. Employment by the commission may be pursuant to contract with a public entity or a private entity.
- To establish an Adopt-a-Highway program to allow volunteers from local organizations to be identified with specific highway cleanup and beautification projects.
- To contract for the development of a highly visible anti-litter campaign that includes identifying groups that habitually litter; designing appropriate advertising to promote proper disposal of litter by groups that habitually litter; fostering public awareness of the litter problem in this state and the litter prevention program; developing educational programs and materials for promoting the proper disposal of litter; acting as the state clearinghouse for educational programs and materials developed, distributed, and promoted by state agencies; coordinating efforts and resources among agencies to ensure minimal duplication of efforts and efficient use of state funds; and using talent, equipment, or expertise donated by the private sector for producing multimedia materials.
- To make and execute contracts necessary to the exercise of its powers, including interagency agreements.
- To conduct, direct, encourage, coordinate, and organize a continuous program of public education relating to litter prevention.
- To review, upon request, all plans and activities pertinent to reducing litter and littering and to coordinate these activities with the various levels of government, as well as with other local organizations.
- To coordinate with state and local organizations to market programs promoting litter prevention and to facilitate the exchange of such programs between local organizations through annual conferences.
- To make available to elementary and secondary schools and other public forums educational programs and materials for promoting the proper disposal of litter.
- To develop and implement statewide incentive programs designed to motivate individual residents of this state, local organizations, local governments, and other groups interested in participating in litter prevention program activities.

- To provide to local governments and nonprofit organizations grants to be used for implementing and maintaining certified Keep America Beautiful Florida Systems litter prevention programs through education and broad based public involvement at the community level. Except as specifically appropriated, a grant may provide up to one-half of the first-year costs of initiating and operating such a program, or \$25,000, whichever is less. Certified Keep America Beautiful Florida Systems are eligible to apply for the funding of local level litter prevention and educational programs and projects, and must receive first priority in the award of such grants.
- To monitor the effectiveness of the litter prevention program annually and to prepare an annual report of operations which includes the results of such monitoring. The commission shall submit the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1 of each year, beginning in 2004.

The Department of Transportation shall place signs discouraging litter at all off-ramps of the interstate highway system in the state. Also, the department shall place other highway signs as necessary to discourage littering, in accordance with the anti-litter program developed by the commission. The department has already put such signs in place to discourage littering.

In order to establish continuity for the statewide program, those local governments and community programs receiving grants for litter prevention and control must use the official State of Florida litter control or campaign symbol adopted by the Clean Florida Commission for use on various receptacles and program material. Currently, s. 15.041, F.S., provides that the official Keep Florida Beautiful, Incorporated, service mark, as registered with the U.S. Patent and Trademark Office, is designated at the State of Florida litter control symbol.

The litter reduction goal established in s. 403.4131(8), F.S., is deleted. This provision provided that the Legislature established a litter reduction goal of 50 percent from the period January 1, 1994, to January 1, 1997.

The bill moves the Wildflower Advisory Council from Keep Florida Beautiful, Inc. to the Department of Agriculture and Consumer Services. The council will consist of 15 members and it will serve in an advisory capacity to the department with respect to the award of wildflower planting grants for Florida native wildflowers, plants, and grasses. The council shall also make recommendations to the department concerning what constitutes acceptable species of wildflowers and other plantings supported by these programs.

Section 403.41315, F.S., is amended to conform to the provisions replacing Keep Florida Beautiful, Inc. with the Clean Florida Commission. The Clean Florida Commission will have rulemaking authority. Several changes are made to clarify that the local Keep America Beautiful affiliates will still be eligible to apply for certain litter prevention and education grants and that such affiliates will have first priority in the award of such grants.

Section 403.709, F.S., is amended to provide that up to 4.5 percent of the annual revenues in the Solid Waste Management Trust Fund (from Waste Tire Fees) would be used to fund the Clean Florida Commission for the coordination, development, and establishment of litter prevention

and education programs. This section requires the Clean Florida Commission to establish a competitive and innovative grant program. Currently, such a program is administered by the Department of Transportation through its Adopt-a-Highway program.

Section 320.08058, F.S., is amended to provide that the annual use fees from the sale of the Wildflower license plate be distributed to the Wildflower Trust Fund in the Department of Agriculture and Consumer Services.

All unexpended proceeds of fees paid for Wildflower license plates which are held by Keep Florida Beautiful, Inc., must be transferred to the Department of Agriculture and Consumer Services promptly after the effective date of this bill (July 1, 2003).

The Wildflower Advisory Council is created in the Department of Agriculture and Consumer Services. The bill requires the department to enter into a letter of agreement with the council which specifies “. . . the approval of the department, the powers and duties of the council, and the rules with which the council shall apply. The council is to develop operational procedures, marketing initiatives, research contracts, educational programs, and wildflower planting grants for native wildflowers, plants, and grasses and must submit recommendations to the Commissioner of Agriculture for approval. Further, the council is to make the final determination of what constitutes acceptable species of wildflowers and other plantings to be supported by the programs.

The bill limits the uses for which the Wildflower Trust Fund may be used to:

- < Market the Wildflower license plate;
- < Establish native wildflower research programs;
- < Conduct wildflower educational programs; and
- < Provide wildflower grant programs in the state, municipal, county, and community-based groups in the state.

The trust fund is made exempt from service charges and the appropriation required by s.215.20, F.S.

This act takes effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

It is anticipated that the local Keep America Beautiful affiliates will continue to be able to participate in a litter and education grants program.

Under this bill, Keep Florida Beautiful will no longer have a statutory role in the state's litter control campaign and program. Also, this entity will no longer receive any state appropriations.

C. Government Sector Impact:

Although this bill creates the Clean Florida Commission in the Department of Community Affairs, with the Secretary of Community Affairs or the secretary's designee serving as chairman, the department has indicated that they do not anticipate any fiscal impact to the agency.

The Clean Florida Commission is authorized to appoint an executive director and such other administrative or clerical staff as is necessary. Also, the commission will be administering the litter grants program to the local Keep America Beautiful affiliate that is currently administered by the Department of Transportation through its Adopt-a-Highway Program. The commission is also required to submit an annual report to the Governor and the Legislature on the effectiveness of the litter prevention program. It is not known at this time the amount of the expenses associated with these activities. The bill does provide that the 4.5 percent of the annual revenues from the Solid Waste Management Trust Fund (Waste Tire Fees) that currently is transferred to the Department of Transportation for their grant program will now be transferred to the Clean Florida Commission for the coordination, development, and establishment of litter prevention and education programs. The commission is required to establish a competitive and innovative grant program for litter control. The bill does not provide any specific appropriations to the commission.

The bill also transfers the Wildflower Advisory Council from Keep Florida Beautiful, Inc. to the Department of Agriculture and Consumer Services (DACS) to serve in an advisory capacity to the department. It also provides that the annual use fees from the Wildflower License Plate will be distributed to the DACS instead of the Wildflower account that was established by Keep Florida Beautiful, Inc. The balance of the Wildflower account is to be transferred to DACS promptly after the effective date of the bill (July 1, 2003). According to the DACS, that balance is \$210,000. The Wildflower License Plate generated \$58,385.98 in its first year of sales (FY 2000). In FY 2001, sales generated revenues of \$152,289 and last calendar year the Department of Highway and Motor Vehicles transferred to Keep Florida Beautiful, Inc. a total \$214,305 to operate the

Wildflower research, educational, and grant programs. DACS anticipates a steady growth in the sale of this license plate and expected revenues for FY 2003-2004 are \$250,000.

DACS has indicated that the department will require spending authority of \$460,000 to cover distribution of funds to establish native wildflower research, education, and grants and aids programs as well as General Revenue Service Charge authority in the Florida Agriculture Promotion Campaign Trust Fund. This bill does not provide such spending authority or an appropriation to DACS.

The Department of Transportation has indicated that the requirement to post no litter signs on highway off-ramps will have no fiscal impact on the department since the department has already posted such signs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 20.03(10), F.S., defines “commission” to mean, unless otherwise provided in 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 [*emphasis added*].”

The commission created by this bill is created within the Department of Community Affairs, which is one of the characteristics of a commission, as defined above. The powers of the commission, however, appear to be more executive in nature than quasi-legislative or quasi-judicial, as provided in the definition of a commission. Section 20.03(12), F.S., defines “board of trustees” to mean

“ . . . a board created by specific statutory enactment and appointed to function adjunctively to a department, the Governor, or the Executive Office of the Governor to administer public property or a public program.”

Since a “board” typically administers programs, which is what the entity created by this bill will do, that definition is also applicable. As the entity created by the bill is called a “commission” but meets parts of the definitions of “commission” and “board of trustees” contained in ch. 20, F.S., it may be appropriate to clarify whether the “commission” is independent of the department in which it is housed or to redesignate the entity as a “board.”

The bill gives the commission the authority to enter into contracts, to accept gifts and grants, bequests and loans, and endowments. There is, however, no specific requirement that an annual audit be performed by the Auditor General for oversight purposes.

There is a requirement that fees from user fees for the Florida Wildflower License Plate that are held by Keep Florida Beautiful, Inc., be distributed to the Department of Agriculture and Consumer Services. It may be appropriate to review whether other funds from grants, gifts and other sources are held by Keep Florida Beautiful, Inc., and to require that those funds also be turned over to the commission that is being substituted for the corporation.

The bill permits the commission to hire an executive director. Presumably, the executive director would serve at the pleasure of the commission. It may, however, be appropriate to specify this.

The executive director is permitted to employ administrative and clerical staff. "Such employment by the commission may be pursuant to contract with a public entity or a private entity."⁹ As this provision is permissive, it appears that the commission may employ workers who could be state employees, contract with public entities to lease public workers, or contract with private entities to lease employees. This section, however, could be clarified.

The bill specifies four secretaries of departments and one cabinet member, or their designees, as members of the commission. Further, the bill permits ". . . any additional members from interested state agencies, local governments, and state and local organizations who are appointed by unanimous consent . . ." of the specified members. While the requirement of unanimous consent would appear to limit the likelihood of additional appointments to the commission, the provision appears to be an infringement upon the power of the Governor to make executive branch appointments. Further, a board that has a size that is open-ended could result in a dilution of control by governmental officials, as well as a diminution of oversight.

There is no requirement that the commission meet on a regular basis. Typically, the Legislature establishes a minimum number of meetings per year to ensure that the assigned duties are fulfilled.

There is no specific reference that commissioners are to serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061, F.S. As the specific members of the commission are agency heads, this may not be a problem for them; however, as the bill permits additional appointments who are likely not to be agency heads, it would be appropriate to specify that commissioners receive per diem and travel expenses pursuant to s. 112.061, F.S.

In order to establish continuity for the statewide program, those local governments and community programs receiving grants for litter prevention and control must use the official State of Florida litter control or campaign symbol adopted by the Clean Florida Commission for use on various receptacles and program material. Currently, s. 15.041, F.S., provides that the official Keep Florida Beautiful, Incorporated, service mark, as registered with the U.S. Patent and Trademark Office, is designated at the State of Florida litter control symbol.

VIII. Amendments:

None.

⁹ Page 4, line12 of SB 666.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
