

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 561 Organizational Structure of Department of Environmental Protection  
**SPONSOR(S):** Agriculture & Natural Resources Appropriations Subcommittee; Agriculture & Natural Resources Subcommittee and Combee  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 400

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Moore, R.	Harrington
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	Helping	Massengale
3) State Affairs Committee	17 Y, 0 N	Moore, R.	Camechis

### SUMMARY ANALYSIS

Current law establishes the structure of the Department of Environmental Protection (DEP) as follows:

- The secretary is the head of the agency;
- Three deputy secretaries are appointed by the secretary;
- Managers are appointed by the secretary and head the following special offices: the Office of Chief of Staff, the Office of General Counsel, the Office of Inspector General, the Office of External Affairs, the Office of Legislative Affairs, the Office of Intergovernmental Programs, the Office of Greenways and Trails and the Office of Emergency Response;
- Six districts are headed by managers, appointed by the secretary and involved in regulatory matters concerning waste management, water resource management, wetlands, and air resources; and
- Divisions may have one assistant or two deputy division directors that direct the districts and bureaus on matters of interpretation and applicability of DEP's rules and programs to ensure statewide and intradepartmental consistency. The divisions are: the Division of Administrative Services, the Division of Air Resource Management, the Division of Water Resource Management, the Division of Environmental Assessment and Restoration, the Division of Waste Management, the Division of Recreation and Parks, and the Division of State Lands.

The bill revises the organizational structure of DEP to:

- Remove the Office of Chief of Staff, Office of General Counsel, Office of Inspector General, Office of External Affairs, Office of Legislative Affairs, Office of Intergovernmental Programs, Office of Greenways and Trails, and Office of Emergency Response;
- Establish the Office of the Secretary and allow the secretary to establish offices within divisions or within the Office of the Secretary to promote the efficient and effective operation of DEP;
- Specify that the secretary must appoint a general counsel who is directly responsible to and serves at the pleasure of the secretary, and specify that the general counsel is responsible for all legal matters of DEP;
- Clarify that offices and districts are headed by managers and divisions are headed by directors;
- Specify that the managers of all offices and districts and directors of all divisions are exempt from part II of chapter 110, F.S., and are included in the Senior Management Service in accordance with s. 110.205(2)(j), F.S.; and
- Add the Division of Water Restoration Assistance as a division within DEP.

The bill has an indeterminate fiscal impact on the state, and does not have a fiscal impact on local government or the private sector.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Section 20.04, F.S., provides the structure of the executive branch of state government as follows:

- A department is the principal administrative unit of the executive branch, and must bear a title beginning with the words “State of Florida” and continuing with “Department of...”.<sup>1</sup>
- For field operations, departments may establish district or area offices that combine division, bureau, section, and subsection functions;<sup>2</sup> and
- For internal structure, departments<sup>3</sup> must adhere to the following standard terms:
  - The principal unit of the department is the “division.” Each division is headed by a “director”;
  - The principal unit of the division is the “bureau.” Each bureau is headed by a “chief”;
  - The principal unit of the bureau is the “section.” Each section is headed by an “administrator”; and
  - If further subdivision is necessary, sections may be divided into “subsections,” which are headed by “supervisors.”

The Executive Office of the Governor must maintain a current organizational chart of each agency of the executive branch, which must identify all divisions, bureaus, units, and subunits of the agency.<sup>4</sup> Agencies must submit organizational charts in accordance with guidelines established by the Executive Office of the Governor.<sup>5</sup>

##### Department of Environmental Protection Organizational Structure

Section 20.255, F.S., provides the organizational structure of the Department of Environmental Protection (DEP). The head of DEP is the secretary.<sup>6</sup> The secretary is appointed by the Governor, with concurrence of three Cabinet members, and must be confirmed by the Senate.<sup>7</sup> The secretary serves at the pleasure of the Governor.<sup>8</sup>

DEP must have three deputy secretaries.<sup>9</sup> These deputy secretaries are appointed by and serve at the pleasure of the secretary.<sup>10</sup> The secretary also appoints managers to head the following special offices within DEP:

- Office of Chief of Staff;
- Office of General Counsel;
- Office of Inspector General;
- Office of External Affairs;
- Office of Legislative Affairs;
- Office of Intergovernmental Programs;
- Office of Greenways and Trails; and

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<sup>1</sup> Section 20.04(1), F.S.

<sup>2</sup> Section 20.04(2), F.S.

<sup>3</sup> Section 20.04(3), F.S., provides an exception for the Department of Financial Services, the Department of Children and Families, the Department of Corrections, the Department of Management Services, the Department of Revenue, and the Department of Transportation.

<sup>4</sup> Section 20.04(8), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Section 20.255(1), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Section 20.255(2)(a), F.S.

<sup>10</sup> *Id.*

- Office of Emergency Response.<sup>11</sup>

DEP must have six districts involved in regulatory matters concerning waste management, water resource management, wetlands, and air resources.<sup>12</sup> The districts are headed by managers, who are appointed by and serve at the pleasure of the secretary.<sup>13</sup>

DEP also has the following divisions:

- Division of Administrative Services;
- Division of Air Resource Management;
- Division of Water Resource Management;
- Division of Environmental Assessment and Restoration;
- Division of Waste Management;
- Division of Recreation and Parks; and
- Division of State Lands. The director of this division is to be appointed by the secretary, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board).<sup>14</sup>

Divisions of DEP may have one assistant or two deputy division directors, as required to facilitate effective operation.<sup>15</sup> Divisions are required to direct the districts and bureaus on matters of interpretation and applicability of DEP's rules and programs to ensure statewide and intradepartmental consistency.<sup>16</sup>

### Reorganization

Departments must be organized along functional or program lines.<sup>17</sup> Structural reorganization must be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and the coordination of existing programs in response to public needs.<sup>18</sup> When a reorganization of state government abolishes positions, the individuals affected, when otherwise qualified, must be given priority consideration for any new positions created by reorganization or for other vacant positions in state government.<sup>19</sup>

Unless specifically authorized by law, the head of a department may not reallocate duties and functions specifically assigned by law to a specific unit of the department.<sup>20</sup> Those functions or agencies assigned generally to the department without specific designation to a unit of the department may be allocated and reallocated to a unit of the department at the discretion of the head of the department.<sup>21</sup>

The head of a department may recommend additional divisions, bureaus, sections, and subsections to promote efficient and effective operation of the department.<sup>22</sup> New bureaus, sections, and subsections may 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 may be established by specific statutory enactment.<sup>23</sup>

### **Effect of Proposed Changes**

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<sup>11</sup> *Id.*

<sup>12</sup> Section 20.255(b), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 20.255(3), F.S.

<sup>15</sup> Section 20.255(2)(b), F.S.

<sup>16</sup> Section 20.255(3), F.S.

<sup>17</sup> Section 20.02(6), F.S.

<sup>18</sup> Section 20.02(4), F.S.

<sup>19</sup> Section 20.02(8), F.S.

<sup>20</sup> Section 20.04(7)(a), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 20.04(7)(b), F.S.

<sup>23</sup> *Id.*

The bill amends s. 20.255, F.S., to modify the organizational structure of DEP. Specifically, the bill:

- Removes the Office of Chief of Staff, Office of General Counsel, Office of Inspector General, Office of External Affairs, Office of Legislative Affairs, Office of Intergovernmental Programs, Office of Greenways and Trails, and Office of Emergency Response;
- Establishes the Office of the Secretary and allows the secretary to establish offices within divisions or within the Office of the Secretary to promote the efficient and effective operation of DEP;
- Specifies that the secretary must appoint a general counsel who is directly responsible to and serves at the pleasure of the secretary, and specifies that the general counsel is responsible for all legal matters of DEP;
- Clarifies that offices and districts are headed by managers and divisions are headed by directors;
- Specifies that the managers of all offices and districts and directors of all divisions, rather than only those specifically named in the section, are exempt from part II of chapter 110, F.S., and are included in the Senior Management Service (SMS) in accordance with s. 110.205(2)(j), F.S.; and
- Adds the Division of Water Restoration Assistance as a division within DEP.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 20.255, F.S., regarding the organizational structure of DEP.

Section 2. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Reclassifying a position as SMS class results in a 15.25 percent increase in salary retirement benefits for each position. The bill removes the limits on the number of offices that DEP may establish. Office managers are included in the SMS class. Because it is not known whether additional offices will be created, and thus, new SMS class positions, the fiscal impact is indeterminate.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed the requirement that DEP must have three deputy secretaries;
- Provided that DEP may establish divisions in addition to the enumerated divisions within s. 20.255, F.S., and the Division of Water Restoration Assistance; and
- Clarified that offices and districts are headed by managers and divisions are headed by directors.

On February 9, 2016, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Restored the number of deputy secretaries DEP must have;
- Established the Office of the Secretary and specified that the secretary may establish offices within divisions or the Office of the Secretary;
- Removed the provision allowing the secretary, in consultation with the Executive Office of the Governor, to merge, divide, or abolish offices as necessary;
- Restored the number of districts DEP must have;
- Restored the provision allowing divisions to have one assistant or two deputy division directors; and
- Removed the provision allowing the secretary to establish other divisions and bureaus deemed necessary to accomplish the mission and goals of DEP.

This analysis is drafted to the committee substitute for the committee substitute as approved by the Agriculture & Natural Resources Appropriations Subcommittee.