

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 7061 PCB SAC 20-02 Duties of the Chief Financial Officer

SPONSOR(S): State Affairs Committee, Ingoglia

TIED BILLS: **IDEN./SIM. BILLS:** SJR 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee	19 Y, 3 N	Darden	Williamson
1) Appropriations Committee	18 Y, 10 N	Helpling	Pridgeon

SUMMARY ANALYSIS

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state. The CFO is responsible for settling and approving accounts against the state, keeping all state funds and securities, and is designated as the State Fire Marshal. The office of CFO was created by Amendment 8 (1998), which merged the offices of Treasurer and Comptroller. The CFO is the head of the Department of Financial Services (DFS). DFS currently receives local government audits and annual financial reports and makes those reports available online.

The joint resolution proposes an amendment to the Florida Constitution to require the CFO to provide information about counties and municipalities, as prescribed by general law, to residents on an annual basis. The required information would allow residents to compare economic and non-economic factors of each local government.

The joint resolution has a nonrecurring fiscal impact on the Department of State for the publication of the proposed constitutional amendment in newspapers of general circulation in each county and for publication of booklets or posters with the amendment language for the supervisors of elections. See *Economic Analysis and Economic Impact Statement*.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 3, 2020. If adopted at the 2020 general election, the resolution would take effect January 5, 2021.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If placed on the ballot, the Constitution requires 60 percent voter approval for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state.¹ The CFO is responsible for settling and approving accounts against the state and keeping all state funds and securities. The CFO is also designated as the State Fire Marshal.² The office of CFO was created by Amendment 8 (1998), which merged the offices of Treasurer and Comptroller.³ The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal and the Department of Banking and Finance merged into DFS.⁴

The various departments of the executive branch receive their statutory powers, duties and functions either in a general grant of authority to either the department head or the department by name or by a specific grant with reference to a particular named unit. The department head has discretion when allocating or reallocating those powers, duties and functions that are assigned to them or their department in a general manner.⁵ If the powers, duties and functions are specifically assigned to a particular unit by statute, they cannot be reallocated by the department head. Rather, they must be reallocated by subsequent legislative enactment. There are similar limitations regarding the allocation and reallocation of existing organizational units or the establishment of new ones, including a restriction on establishing new divisions.

Section 20.121, F.S., establishes the following 13 divisions (and one independent office) within DFS:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;⁶
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;⁷
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.⁸ The Financial Services Commission has two

¹ Art. IV, s. 4, Fla. Const.

² S. 633.104(1), F.S.

³ *Restructuring the State Cabinet*, Fla. Div. of Elections, <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=4> (last visited Jan. 23, 2020).

⁴ See ch. 2002-404, Laws of Fla. (creating DFS and providing for reorganization of existing agencies).

⁵ S. 20.04(7)(a), F.S.

⁶ The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

⁷ The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S. for state employees.

⁸ S. 20.121(3), F.S.

subunits, the Office of Insurance Regulation and the Office of Financial Regulation.⁹ Both subunits are managed by directors selected by the commission and must have at least 5 years of relevant experience in the previous 10 years.¹⁰

Local Government Financial Reports

Currently, local government entities that are required to provide an audit under s. 218.39, F.S., must submit an audit report and annual financial report to DFS within 45 days of completion of the audit report, but no later than nine months after the end of the fiscal year.¹¹ Local government entities that are not required to submit an audit must submit an annual financial report to DFS no later than nine months after the end of the fiscal year.¹² The annual financial report must be signed by the chair of the local governing body and the chief financial officer for the entity.¹³ The local government's website must contain a link to the DFS website where an interested person may view the entity's annual financial report.¹⁴

Effect of Proposed Changes

The joint resolution proposes an amendment to Art. IV, s. 4 of the Florida Constitution to require the CFO to provide information about counties and municipalities, as prescribed by general law, to residents on an annual basis. The required information would allow residents to compare economic and non-economic factors of each local government.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions be published in a newspaper of general circulation in each county where a newspaper is published. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot, once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.¹⁵

There are costs associated with the constitutional requirement to advertise proposed constitutional amendments. The division, using 2018 election cycle per English world advertising rates, has estimated the cost to advertise the amendment to be \$48,881.18, at a minimum. Accurate costs based on the current election cycle cannot be determined until the total number of amendments to be advertised is known.¹⁶ The cost to advertise the amendment would be paid from nonrecurring General Revenue funds.

⁹ S. 20.121(3)(a), F.S.

¹⁰ S. 20.121(3)(d), F.S.

¹¹ S. 218.32(1)(d), F.S. A "local government entity" includes any county, municipality, or special district. S. 218.31(1), F.S.

¹² S. 218.32(1)(e), F.S.

¹³ S. 218.32(1)(a), F.S.

¹⁴ S. 218.32(1)(g), F.S.

¹⁵ S. 101.171, F.S.

¹⁶ Email from Brittany Dover, Legislative Affairs Director, Florida Department of State, RE: HB 7061, (Feb. 6, 2020).

The proposed constitutional amendment would require DFS to provided information about counties and municipalities to residents on an annual basis, as prescribed by law. Currently, there is no statutory requirement for DFS to provide such information to residents. The cost for DFS to implement the constitutional amendment will vary with how DFS is instructed to provide specified information prescribed in general law.

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 to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.¹⁷ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.¹⁸

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the next general election; as such, the effective date for the amendment, if approved, will be January 5, 2021.

B. RULE-MAKING AUTHORITY:

The House Joint Resolution neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹⁷ Art. XI, s. 1, Fla. Const.

¹⁸ Art. XI, s. 5, Fla. Const.