

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB PBC 07-04 Florida Government Accountability Act  
**SPONSOR(S):** Policy & Budget Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Policy & Budget Council		Leznoff	Hansen
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

Through the passage of HB 1123 and the subsequent enactment of Chapter 2006-146, Laws of Florida, the Legislature created the Government Accountability Act which permitted the establishment of Legislative Sunset Advisory Committees and provided a sunset framework for state agencies and advisory committees. The act provides for a detailed review process and a schedule by which agencies and advisory committees would be subject to review. This proposed council bill:

- Changes the name of the Legislative Sunset Advisory *Committee* to the Legislative Sunset *Commission* (commission) and provides additional detail regarding the composition of its members and the rotation schedule of the chair and vice chair appointment.
- Requires rather than permits the creation of a joint Legislative Sunset Advisory Commission pursuant to joint rules.
- Identifies the Office of Program Policy Analysis and Government Accountability (OPPAGA) as responsible for any additional research the commission requires.
- Alters the schedule for reviewing state agencies and advisory committees and establishes an ongoing sunset review cycle. Permits further alteration of the schedule by the Speaker of House of Representatives and the President of the Senate under certain conditions.
- Provides that in the event that the Legislature intends to abolish an agency and does not completely re-assign all remaining responsibilities, the Governor is empowered to assign the outstanding responsibilities of the abolished agency until such provision is made by law.
- Changes the due date of the agency report to July 1 two years preceding the review date specified in s. 11.905, F.S to concur with two-year review cycle.
- Provides that agencies shall continue to be under review by the commission should the Legislature fail to pass legislation relating to their continuation, modification, or termination.
- Modifies requirements for agency reports, and OPPAGA reviews; and changes the due date for the commission report.
- Deletes specified criteria for commission review but provides that the commission may consider the required information provided in mandated agency reports.
- Authorizes the commission to propose legislation and exercise powers vested in a standing committee.

The bill has no fiscal impact to state or local governments.

The bill provides for an effective date of July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Sections 11.901 through 11.920, F.S., create the Florida Government Accountability Act, which provides a rationale for and an analytical review of agencies of Florida government on a periodic cycle that would result in the continuation, modification, or abolition of named state agencies and advisory bodies. The act provides that an agency subject to review will be abolished unless the Legislature continues the agency or advisory committee. However, an agency may not be abolished unless all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another agency and adequate provision has been made for the transfer to a successor agency of all duties and obligations.

The act contains a detailed review process. First each agency is required to submit specified information to the committee, no later than January 1, of the year preceding its scheduled review. This information includes:

1. The performance measures for each program and activity and 3 years of data for each measure that provides actual results for the immediately preceding 2 years and projected results for the current fiscal year.
2. An explanation of factors that have contributed to any failure to achieve the legislative standards.
3. The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.
4. The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which public participation has resulted in rules compatible with the objectives of the agency.
5. The extent to which the agency has complied with applicable requirements of state law and applicable rules regarding purchasing goals and programs for historically underutilized businesses.
6. A statement of any statutory objectives intended for each program and activity, the problem or need that the program and activity were intended to address, and the extent to which these objectives have been achieved.
7. An assessment of the extent to which the jurisdiction of the agency and its programs overlap or duplicate those of other agencies and the extent to which the programs can be consolidated with those of other agencies.
8. An assessment of less restrictive or alternative methods of providing services for which the agency is responsible which would reduce costs or improve performance while adequately protecting the public.
9. An assessment of the extent to which the agency has corrected deficiencies and implemented recommendations contained in reports of the Auditor General, the Office of Program Policy Analysis and Government Accountability, legislative interim studies, and federal audit entities.
10. The extent to which the agency enforces laws relating to potential conflicts of interest of its employees.

11. The extent to which the agency complies with public records and public meetings requirements.
12. The extent to which alternative program delivery options, such as privatization or insourcing, have been considered to reduce costs or improve services to state residents.
13. Recommendations to the committee for statutory or budgetary changes that would improve program operations, reduce costs, or reduce duplication.
14. The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished.
15. A list of all advisory committees, including those established in statute and those established by managerial initiative; their purpose, activities, composition, and related expenses; the extent to which their purposes have been achieved; and the rationale for continuing or eliminating each advisory committee.
16. Agency programs or functions that are performed without specific statutory authority.
17. Other information requested by the committee.

Upon receipt of the report OPPAGA conducts an evaluation and justification review considering the information submitted by the agency, the results of which are to be submitted to the Speaker of the House and President of the Senate by October 31, in the year the agency submits its report.

The act establishes the Legislative Sunset Advisory Committee which must, by March 1 of the year in which the agency is to be reviewed, review the information sent by the agency and OPPAGA and consult with the:

- Legislative Budget Commission
- relevant legislative committees
- Governor's Office Of Policy and Budget
- Auditor General and
- Chief Financial Officer

and produce a report that includes a recommendation to abolish, continue, or reorganize an agency under review. The report is required to use the following criteria in determining the public need for the continued existence of an agency:

1. Agency compliance with the accountability measures, as analyzed by the Auditor General, the Office of Program Policy Analysis and Government Accountability, and the Office of Policy and Budget within the Executive Office of the Governor
2. The efficiency with which the agency or advisory committee operates.
3. The statutory objectives of the agency or advisory committee and the problem or need that the agency or advisory committee is intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities.
4. An assessment of less restrictive or alternative methods of providing any regulatory function for which the agency is responsible while adequately protecting the public.
5. The extent to which the advisory committee is needed and is used.
6. The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.
7. Whether the agency has recommended to the Legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates.
8. The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.
9. The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

10. The extent to which the agency has complied with applicable requirements of state law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses.
11. The extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section.
12. The extent to which the agency adopts and enforces rules relating to potential conflicts of interest of its employees.
13. The extent to which the agency complies with public records and public meetings requirements.
14. The extent to which the agency accurately reports performance measures used to justify state spending on each of its activities, services, and programs.
15. The effect of federal intervention or loss of federal funds if the agency is abolished.
16. Whether any advisory committee or any other part of the agency exercises its powers and duties independently of the direct supervision of the agency head in violation of s. 6, Art. IV of the State Constitution.

In addition, the report is to make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review. The act also requires reports and assistance from agencies, the Auditor General and the Office of Program Policy Analysis and Government Accountability.

The act specifies a schedule under which agencies are to be reviewed beginning July 1, 2008, and ending July 1, 2015 as follows:

Reviewed July 1, 2008:

- Statutorily created responsibilities of the Fish and Wildlife Conservation Commission.
- Department of Agriculture and Consumer Services.
- Department of Citrus, including the Citrus Commission.
- Department of Environmental Protection.
- Department of Highway Safety and Motor Vehicles.
- Water management districts.

Reviewed July 1, 2009:

- Department of Children and Family Services.
- Department of Community Affairs.
- Department of Management Services.
- Department of State.

Reviewed July 1, 2010:

- Advisory committees for the Florida Community College System.
- Advisory committees for the State University System.
- Agency for Workforce Innovation.
- Department of Education.
- Department of the Lottery.

Reviewed July 1, 2011:

- Agency for Health Care Administration.
- Agency for Persons with Disabilities.
- Department of Elderly Affairs.
- Department of Health.

Reviewed July 1, 2012:

- Department of Business and Professional Regulation.
- Department of Transportation.
- Department of Veterans' Affairs.

Reviewed July 1, 2013:

- Advisory committees for the State Board of Administration.
- Department of Financial Services, including the Financial Services Commission.
- Department of Revenue.

Reviewed July 1, 2014:

- Department of Corrections.
- Department of Juvenile Justice.
- Department of Law Enforcement.
- Department of Legal Affairs.
- Justice Administrative Commission.
- Parole Commission.

Reviewed July 1, 2015:

- Executive Office of the Governor.
- Florida Public Service Commission.

The timeframes specified in the act are demonstrated in the following table for the initial sunset review cycle.

January 1, 2007	Agencies submit reports to the Sunset Advisory Committee.
October 31, 2007	OPPAGA submits justification review and program evaluation to the Sunset Advisory Committee, Speaker of the House of Representatives, and President of the Senate.
March 1, 2008	Sunset Advisory Committee presents to the President of the Senate and the Speaker of the House of Representatives a report on the agencies and advisory committees scheduled to be reviewed that year by the committee.
June 30, 2009	Agency subject to a Sunset Review is abolished unless the Legislature continues the agency or advisory committee.

### Effect of Proposed Changes

This bill changes the name of the committee from the Legislative Sunset Advisory Committee to the Legislative Sunset Commission. The bill *requires* the appointment of one or more joint committees by joint rule rather than the permissive appointment provided for by current law. The bill also inserts language that delineates the composition of the commission. Specifically, it states that a joint commission requires a minimum of 10 members, with the option of expanding as needed, as long as each chamber has equal membership. In addition, the bill requires that 3 of the 5 presiding officers' selected members serve on a committee/council with jurisdiction over the agencies being reviewed.

This bill provides that the authority to appoint the chair and vice chair of the commission alternates between the presiding officers in two year increments in the second year of the two-year review cycle. The bill also identifies OPPAGA as responsible for any additional research the commission requires to produce its report and keeps the Auditor General available to assist as requested.

This bill alters the schedule for reviewing state agencies and advisory committees to re-group some agencies into policy clusters groups where it is possible to review related functions during a two-year review cycle to allow consideration of meta-issues that cross agency lines such as environmental permitting and health care. In addition, this change increases the number of agencies under review each cycle and establishes an ongoing Sunset Review Cycle. It also permits the Speaker of the House

and the President of the Senate to alter the schedule as long as any affected agency receives a 6 month notice of the change. The following schedule would be followed with this bill.

Reviewed July 1, 2008:

- Statutorily created responsibilities of the Fish and Wildlife Conservation Commission.
- Department of Agriculture and Consumer Services.
- Department of Citrus, including the Citrus Commission.
- Department of Environmental Protection.
- Department of Highway Safety and Motor Vehicles.
- Water management districts.

Reviewed July 1, 2010:

- Department of Children and Family Services.
- Agency for Persons with Disabilities.
- Department of Elderly Affairs.
- Agency for Health Care Administration.
- Department of Health.
- Department of Veterans' Affairs.

Reviewed July 1, 2012:

- Department of Business and Professional Regulation.
- Department of Management Services.
- Department of State.
- Department of Community Affairs.
- Executive Office of the Governor.
- Florida Public Service Commission.
- Advisory committees for the State Board of Administration.
- Department of Financial Services, including the Financial Services Commission.
- Department of Revenue.

Reviewed July 1, 2014:

- Department of Corrections.
- Department of Juvenile Justice.
- Department of Law Enforcement.
- Department of Legal Affairs.
- Department of Military Affairs.
- Department of Transportation.
- Justice Administrative Commission.
- Parole Commission.

Reviewed July 1, 2016:

- Advisory committees for the Florida Community College System.
- Advisory committees for the State University System.
- Agency for Workforce Innovation.
- Department of Education.
- Department of the Lottery.

This bill provides that in the event that the legislature intends to abolish an agency and does not completely re-assign all responsibilities, the Governor is empowered to assign the outstanding responsibilities of the abolished agency until such provision is made by law. The bill also provides that agencies shall continue to be under review by the Commission should the Legislature fail to pass legislation relating to their continuation, modification, or termination

The bill changes the due date of the agency report to July 1 two years preceding the review date specified in 11.905, F.S., to concur with the two-year review cycle. Also, the agency report requirements are amended to delete the requirement regarding historically underutilized businesses, conflicts of interest among employees, and public records compliance. It directs the OPPAGA review to focus on agency-wide issues and examine cost, alternate course of actions to increase efficiency and effectiveness, consequences of discontinuation. The bill eliminates the October 31<sup>st</sup> due date for OPPAGA's report and instead provides for the Commission to establish the focus and time frames for reporting.

The bill deletes the criteria for commission review and provides that the commission may examine the required information provided in the mandated agency report. The criteria for review and the agency required information are similar and in some specific instances, identical.

Finally, this bill changes the due date of the Commission's report to January 31 of the review year; authorizes the Commission to propose legislation to implement recommendations, exercise all powers vested in a standing committee of the Legislature pursuant to s. 11.143, F.S., and request the assistance of state agencies and officers in conducting its reviews.

#### C. SECTION DIRECTORY:

- Section 1. Amends subsection (3) of s. 11.902 F.S., relating to definitions.
- Section 2. Amends s. 11.903 F.S., relating to Legislative Sunset Advisory Committees.
- Section 3. Amends s. 11.904 F.S., relating to staff.
- Section 4. Amends s. 11.905 F.S., relating to schedule for reviewing state agencies and advisory committees.
- Section 5. Amends s. 11.9055, F.S., relating to abolition of state agencies and advisory committees.
- Section 6. Amends s. 11.906 F.S., relating to agency report to commission.
- Section 7. Amends s.11.907 F.S., relating to legislative review.
- Section 8. Amends s.11.908 F.S., relating to commission duties.
- Section 9. Amends s.11.910 F.S., relating to criteria for review.
- Section 10. Amends s.11.911 F.S., relating to recommendations.
- Section 11. Amends s.11.918 F.S., relating to subpoena power.
- Section 12. Repeals s.11.919 F.S., relating to assistance and access to state agencies.
- Section 13. Provides for an effective of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill does not have a fiscal impact on state government revenues.

#### 2. Expenditures:

This bill does not have a fiscal impact on state government expenditures.

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

1. Revenues:

This bill does not have an impact on local government revenues.

2. Expenditures:

This bill does not have an impact on local government expenditures.

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

This bill does not appear to have a direct economic impact on the private sector.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

This bill does not appear to raise any constitutional issues.

**B. RULE-MAKING AUTHORITY:**

This bill does not appear to create, modify, or eliminate rulemaking authority.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**