

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAAC 09-04 An act relating to community affairs
SPONSOR(S): Government Accountability Act Council
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Government Accountability Act Council	13 Y, 4 N	Mitchell	Hansen
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3)				
4)				
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SUMMARY ANALYSIS

The Proposed Council Bill (bill) abolishes the Department of Community Affairs (DCA) as a separate state agency. With the abolition of the agency, a number of programs and activities of the DCA are being transferred to other agencies.

The Division of Housing and Community Development and Division of Community Planning and all associated resources, rules, and existing laws are transferred from the DCA to the Department of State (DOS) by type two transfer, effective October 1, 2009.

The Division of Emergency Management and all associated resources, rules, and existing laws are transferred from the DCA to the Executive Office of the Governor by type two transfer, effective October 1, 2009. The Office of Emergency Management is created within the Executive Office of the Governor, which will assume the role and duties of the Division of Emergency Management.

Oversight of the Florida Housing Finance Corporation will be assigned to DOS for administrative purposes. This will necessitate no change in policy or operations.

Oversight of the Florida Access to Civil Legal Assistance Act and its associated program is transferred from the DCA to the Department of Legal Affairs by type two transfer, effective October 1, 2009. The Florida Building Commission and the Manufactured Buildings Program are transferred from the DCA to the Department of Business and Professional Regulation (DBPR) by type two transfer, effective October 1, 2009.

The bill eliminates the "Century Commission for a Sustainable Florida," and the homeowners covenant revitalization program.

Administrative savings will be generated from the abolition of DCA and a transfer of its programs to the DOS, DBPR and the Executive Office of the Governor. The FY 2009-10 base budget includes 78 FTE and almost \$5.2 million in salaries and benefits in the Office of the Secretary of DCA (\$1.2 million of that amount is general revenue.) Initial estimates indicate, at a minimum, 12 senior level positions in the agency could be eliminated for an annual savings of \$1.3 million.

The bill is effective July 1, 2009, unless otherwise provided.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Constitutional Requirements for State Agencies

Art. IV, Fla. Const., provides the executive structure of state government. Section 6 of Art. IV, provides a cap on the number of executive departments at 25, exclusive of those specifically provided for or authorized by the Constitution. Section 6 provides, in part:

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 and serving at the pleasure of the governor ...

DEPARTMENT OF COMMUNITY AFFAIRS

Structure and Responsibilities:

The DCA, created in s. 20.18, F.S., is composed of three divisions: Emergency Management, Housing and Community Development, and Community Planning. In FY2008-09, DCA had 351 FTE positions and a total appropriation of \$1,319 million (\$6 million in general revenue and \$1,313 million in trust funds). This includes \$280 million, all in trust funds for Florida Housing Finance Corporation. DCA 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 with a FY 2008-09 appropriation of \$63 million, which is included in the DCA appropriation figures cited above.

The DCA is responsible for:

- Growth management;
- Emergency management mitigation and recovery; and
- Housing and community development.

The Division of Community Planning administers Florida's growth management programs and related initiatives. Some of the programs the division administers are authorized under chapter 163, Part II, and chapter 380, F.S. Programs include:

- Comprehensive Plan Review
- Areas of Critical State Concern
- Developments of Regional Impact
- Technical Assistance
- Other Planning Initiatives, including:
 - hazard mitigation/post disaster redevelopment,
 - military base encroachment,
 - springs protection,
 - Waterfronts Florida initiative,
 - Wekiva Parkway and Protection,
 - transportation planning, and
 - school facilities planning.
- State Clearinghouse and Federal Consistency Review
- Homeowners' Covenant Revitalization

The 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. The Florida Communities Trust administers two state land acquisition grant programs that provide funding to local governments and eligible non-profit organizations to acquire parks, open space, greenways and projects supporting Florida's seafood harvesting and aquaculture industries. Programs include:

- Small Cities Community Development Block Grants
- Community Services Block Grant
- Low-Income Home Energy Assistance
- Weatherization Assistance
- Low-Income Emergency Home Repair
- Florida Access to Civil Legal Assistance
- Front Porch Florida – Office of Urban Opportunity
- Florida Building Codes and Standards
- Special District Information Program
- Florida Communities Trust

The Division of Emergency Management (DEM) 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.

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, Florida Building Commission (Commission), Florida Communities Trust Governing Board,

Florida Housing Finance Corporation Board, the Century Commission for a Sustainable Florida and Handicapped Accessibility Advisory Council.

The Commission is comprised of 23 members appointed by the Governor to administer the state building code policy, pursuant to ch. 553, Parts I through VIII, F.S., and Rules 9B-3, 9B-7, 9B-44, 9B-60, 9B-52, and 9B-67, F.A.C. The Commission develops, adopts, and interprets the Florida Building Code, which is enforced statewide by local governments, and has oversight authority of the "Florida Americans with Disabilities Accessibility Implementation Act."¹

It also administers the Manufactured Building, Prototype Building, and Product Approval Programs. The Manufactured Building Program oversees construction plans, specifications and quality control procedures for manufactured building units and factory-built school buildings to ensure compliance with the Florida Building Code.² Manufactured buildings provide an affordable alternative to onsite residential construction.

DEPARTMENT OF STATE

Structure and Responsibilities:

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Administrative Services, Elections, Historical Resources, Corporations, Library and Information Services, and Cultural Affairs. In FY 2008-09, DOS had 457 positions and a budget of \$93 million (\$61 million in general revenue and \$32 million in trust funds).

The Department of State is responsible for:

Administrative and Record-Keeping Duties

- Serving as the official custodian of records;
- 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;
- 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;

Elections Duties

- Administering and enforcing the state election laws, ch. 97-106, F.S.;
- Maintaining financial disclosures for all constitutional and state officers and specified employees;
- Qualifying all federal, state and multi-county candidates;

¹ Sections 553.501-553.513, F.S.

² Part I, ch. 553, F.S.

Community-Based Duties

- 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;
- Promoting 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.

Effect of Proposed Changes

Transfer of DCA Programs to DOS

Two methods of executive branch reorganization are addressed in s. 20.06, F.S. This bill provides for the reorganization of the DOS and the DCA by a type two transfer pursuant to s. 20.06(1), F.S.³ 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 specifically 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.

Transfer of Division of Community Planning and Division of Housing and Community Development to DOS

The relocation of these divisions via type two transfer pursuant to s. 20.06(1), F.S., ensures that all resources, rules, and existing procedure will be transferred in total to DOS. Administrative positions from DCA will also be transferred to DOS to ensure sufficient resources to carry out established responsibilities without interruption.

Both DCA and DOS have similar missions to provide guidance, technical assistance and financial assistance to local governments and communities. This coincides with principles of a smaller, more efficient government while maintaining critical and essential government functions, and eliminating the duplication and overlap of functions and services within and across agencies. An evaluation of

3 TYPE TWO TRANSFER.--A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed there from or abolished.

all state agencies show both DOS and DCA are among the ten smallest agencies in terms of FTE and general revenue funding. With the transfer in the bill, the combined agency will remain as one of the ten smallest agencies for both FTE and general revenue.

Transfer of DEM to the Governor's Office

The Office of Emergency Management is created within the Executive Office of the Governor. The director of the Office of Emergency Management shall continue to be appointed by and serve at the pleasure of the Governor. From a practical standpoint, DEM currently operates as a separate entity and shares only minimal administrative resources with DCA.

Reassignment of the Florida Housing Finance Corporation

Florida Housing Finance Corporation (FHFC) will be assigned to DOS for administrative purposes. FHFC operates as a standalone entity and is connected to DCA solely for matters regarding funding and budgetary authority. There will be no change in policy or operations.

Transfer of the Florida Access to Civil Legal Assistance Act

Oversight of the Florida Access to Civil Legal Assistance Act and its associated program is transferred via type two transfer pursuant to s. 20.06(1), F.S., from the DCA to the Department of Legal Affairs.

Transfer of the Florida Building Commission and Manufactured Building Program to DPBR

The Florida Building Commission⁴ and the Manufactured Building Program⁵ would be transferred by type two transfer to DBPR, the agency currently charged with oversight of the Mobile Home Park Regulatory Program and regulation of the Building Code Administrators and the Inspectors Board.⁶

Miscellaneous

The "Century Commission for a Sustainable Florida" and the homeowners covenant revitalization program are eliminated.

The bill is effective July 1, 2009, unless otherwise provided.

B. SECTION DIRECTORY:

Section 1. Creates s.14.2017, F.S., to create the Office of Emergency Management within the Executive Office of the Governor and providing that the director of the office shall be appointed by the Governor.

Section 2. Amends s. 20.10, F.S., to create the Division of Housing and Community Development containing the Office of Urban Development, and the Division of State and Community Planning and in DOS; providing appointment powers of the Secretary of State.

Section 3. Amends s. 68.096 (1), F.S., relating to definitions, to correct a reference .

Section 4. Amends s. 68.105, F.S., relating to use of funds, to correct a reference to the Department of Legal Affairs.

⁴ The Florida Building Commission is governed by part IV, ch. 553, F.S.

⁵ The Manufactured Building Program is governed by part I, ch. 553, F.S.

⁶ Building Code Administrators and Inspectors are regulated by DBPR under part XII, ch. 468, F.S.

Section 5. Amends s. 420.504, F.S., to transfer the Florida Housing Finance Corporation to the DOS.

Section 6. Amends s. 420.506, F.S., to provide for appointment and removal of the executive director of the Florida Housing Finance Corporation by the Secretary of State.

Section 7. Provides for a type two transfer of the Division of Housing and Community Development and Division of Community Planning and all associated resources, rules, and existing laws from the DCA to the DOS, effective October 1, 2009.

Section 8. Provides for a type two transfer of the Division of Emergency Management and all associated resources, rules, and existing laws from the DCA to the Executive Office of the Governor, effective October 1, 2009.

Section 9. Provides for a type two transfer of the Florida Access to Civil Legal Assistance Act and its legal assistance program from DCA to the Department of Legal Affairs, effective October 1, 2010.

Section 10. Provides for a type two transfer of the manufactured building program and oversight of the Florida Building Commission including oversight of the Florida Building Code and all associated resources, rules, and existing laws from DCA to the DBPR, effective October 1, 2009.

Section 11. Un-numbered section relating to conforming legislation.⁷

Section 12. Directs the Secretary of State to evaluate transferred programs, functions and activities transferred to the DOS and submit recommendations to the Governor and the Legislature by January 1, 2010.

Section 13. Provides Legislative intent and imposes a restriction on the promulgation of DCA administrative rules.

Section 14. Repeals a number of sections to eliminate the DCA, Century Commission for a Sustainable Florida, the Special District Information Program and the homeowner association covenant revitalization program. The following sections are repealed: ss. 20.18, 163.3247, 720.403, 720.404, 720.405, 720.406, and 720.407, F.S.

Section 15. Provides an effective date of July 1, 2009, unless otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Administrative savings will be generated from the abolition of DCA and a transfer of its programs to the DOS, DBPR and the Executive Office of the Governor. The FY 2009-10 base budget includes 78 FTE and almost \$5.2 million in salaries and benefits in the Office of the Secretary of DCA (\$1.2 million of that amount is general revenue). Initial estimates indicate, at a minimum, 12 senior level positions in the agency could be eliminated for an annual savings of \$1.3 million.

2. Expenditures:

⁷ The language used in this section was recommended by the House Bill Drafting Office.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill provides for the transfer of all programs, functions, activities, personnel and funding from the DCA to the DOS, DBPR and the Executive Office of the Governor.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to affect municipal or county governments.

2. Other:

B. RULE-MAKING AUTHORITY:

The bill imposes a restriction on DCA rulemaking until July 1, 2010, except as is required for compliance with federal or state law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill directs the Division of Statutory Revision, upon request, to assist any relevant substantive committees with preparing legislation to conform the Florida Statutes and any 2009 legislation to the provisions of the bill.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

At its March 17, 2009, meeting, the Government Accountability Act Council adopted an amendment to strike line 276 of the bill which would have repealed the Special District Information Program. The effect of the adopted amendment is to *retain* the Program and transfer it to the DOS, effective October 1, 2009.