

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAAC 10-04 Sunset Review, Department of Community Affairs

SPONSOR(S): Government Accountability Act Council

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Government Accountability Act Council		Zeiler	Mahler
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Government Accountability Act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action, the agency will continue to be subject to an annual sunset review each year until the Legislature enacts legislation that continues, modifies, or terminates the agency. The Department of Community Affairs (DCA) is scheduled to be reviewed by July 1, 2010 and included in this review is the Division of Emergency Management (DEM).

PCB GAAC 10-04 (bill) makes a number of changes based upon the review and recommendations that occurred during the sunset review process. The bill:

- Reenacts the DCA, and the DEM.
- Provides the DCA rulemaking authority to administer Front Porch Florida Initiatives and that such rules are not effective until ratified by the Legislature.
- Amends Part V of Chapter 380, F.S., and removes provisions not utilized in the current administration of Florida Community Trust Program. These provisions are “site reservation”, the practice of temporarily acquiring lands for subsequent transfer, and “loans” to local governments and nonprofit organizations.
- Repeals the Community-Based Development Organization Assistance Act (ss. 163.455-163.462, F.S.)
- Amends ss. 189.4035, 189.412, and 189.427, F.S., regarding DCA’s Special District Information Program. The bill updates the statutes to reflect the program’s current practice of indentifying and categorizing “Special Districts”. The DCA is authorized to electronically publish, rather than print, the official list of special districts, and the “Florida Special District Handbook”. The bill revises the statutes to reflect the current practice of collecting fees that pay the entire cost of administering the Special District information Program.
- Transfers, by a type two transfer, the Small County Technical Assistance Program from the Department of Agriculture and Consumer Services (DACS) to the DCA.
- Abolishes the Hurricane Loss Mitigation Program Advisory Council and transfers, by a type two transfer, all the advisory councils powers, duties, and functions to DEM.
- Abolishes the funding for the Century Commission for a Sustainable Florida
- Provides an effective date of July 1, 2010.

The bill has no significant fiscal impact on state government.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb04.GAAC.doc
DATE: 3/9/2010

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:

Overview

Sections 11.901-11.920, F.S., the "Florida Government Accountability Act," creates an agency sunset review process to determine if a public need exists for the continuation of a state agency, its advisory committees, or its programs. The act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action before the review date to reenact the agency or its advisory committees, the agency will continue to be subject to an annual sunset review until the Legislature enacts legislation relating to the agency's abolition, continuation, or reorganization.

Sunset Review Process

The act requires the appointment of a Joint Legislative Sunset Committee to oversee the review process, obtain public input, and make recommendations to abolish, continue, or reorganize the agency under review.

Two reports are required prior to an agency's review date:

- No later than two years preceding the year in which an agency and its advisory committees are scheduled to be reviewed, the agency must provide the Legislature with a preliminary report detailing its programs and activities. Upon receipt of the agency's report, the sunset review committees of the Senate and House of Representatives are required to conduct independent reviews of the agency and its advisory committees. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General are required to assist the Senate and House of Representatives in the review process.
- No later than March 1 of the year in which an agency is scheduled to be reviewed, the sunset committees of the Senate and House of Representatives are required to provide the President of the Senate and Speaker of the House of Representatives with recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees, and on the need for the performance of the functions of the agency and its advisory committees.

Recommendations

The Joint Legislative Sunset Committee, Senate Committee on Community Affairs and OPPAGA have prepared various reports and memorandums regarding the sunset review of DCA and the FHFC. Their recommendations related to the FHFC are summarized in bullet format below with earliest date first.

OPPAGA–December 2008 (DCA - Overview)

- No recommendations.

OPPAGA–January 2008 (DCA – Advisory Committees Assessment)

- OPPAGA identified three entities that met the statutory definition of an advisory committee and made the following recommendations:
 - Florida Building Commission (Part IV of Chapter 553, F.S.), continue.
 - Florida Communities Trust Governing Board (s. 380.504, F.S.), continue.
 - Century Commission for Sustainable Florida (s. 163.3247, F.S.), no recommendation – the commissions advises the Governor and the Legislature, rather than DCA.

OPPAGA –February 2008 (DEM - Overview)

- No recommendations.

OPPAGA–February 2008 (DEM - Advisory Committees Assessment)

- DEM reported five entities as advisory committees and OPPAGA made the following recommendations:
 - Hurricane Loss Mitigation Program Advisory Council (s. 215.559(5), F.S.), abolish and repeal s. 215.559(5), F.S.
 - State Emergency Response Commission for Hazardous Material (Executive Order 87-57), continue.
 - Local Emergency Planning Committees (Managerial Initiative, 1988), continue.
 - Citizens Corps Task Force (Executive Order 03-105), continue.
 - State Hazard Mitigation Plan Advisory Team (Managerial Initiative 2002), continue

Senate Committee on Committee Affairs–October 2008

- The Legislature may consider authorizing the DCA to charge a nominal fee to local governments for the review of certain comprehensive plan amendments.

Senate Committee on Committee Affairs–October 2009

With respect to the Department of Community Affairs, the professional staff of the Senate's Community Affairs Committee recommends the Legislature consider the following:

- Retain the DCA.
- Review of the Waterfronts Florida Partnership Program, the Stan Mayfield Working Waterfronts Program, and the revisions contained in Amendment 6 to the State Constitution, relating to classification of Working Waterfront property and delete any duplicative provisions and ensure compatibility among the programs.

- Grant the DCA the authority to impose fees for review of comprehensive plan amendments and proposed revived homeowners' covenants and restrictions.

During the 2009 Regular Session, the Florida Senate considered CS/SB 1786 which established a \$200 fee for each proposed comprehensive plan amendment submitted to the DCA. No companion bill was filed in the House and CS/SB 1786 died in conference committee.

- Delete references to Front Porch Florida, the Low-Income Emergency Home Repair Program, and the Community Workforce Housing Innovation Pilot Program once all Community Workforce Housing Innovation Pilot Program contracts are closed.

With respect to the Florida Housing Finance Corporation, the professional staff of the Senate's Community Affairs Committee recommends the Legislature consider the following:

- Retain the FHFC.

With respect to the state's Division of Emergency Management, the professional staff of the Senate's Military Affairs and Domestic Security Committee recommends the Legislature consider the following:

- Retain the DEM
- Review the effectiveness of support agreement between DCA and DEM.
- Review the Florida Statutes for references that assigned responsibilities to DCA, but are the functional responsibility of DEM.
- Develop new performance measures and standards for DEM.
- Develop an internal audit function within DEM to improve program oversight and management.

The Joint Legislative Sunset Committee made the following recommendations:

- Consolidate the Florida Community Trust and the Florida Recreation Development Assistance Programs and have them administered at the DCA.
- Combine the mobile home program at DCA and manufacture building program at the Department of Highway Safety and Motor Vehicles, under the Department of Business Regulation utilizing private inspectors.
- Authorize DEM to develop transparent procedures to award Hurricane Loss Mitigation Program grants with measurable benefits.

PCB GAAC 10-04

Overview of the DCA

Current situation

DCA is headed by the Secretary who is appointed by the Governor and confirmed by the Senate. The Department is designated by law as the state's land planning agency, and is divided into the Division of Community Planning, the Division of Housing and Community Development, and the Division of Emergency Management.

The Division of Community Planning works with local governments to implement and administer Florida's growth management laws and associated programs and services, and also provides local governments with technical support to meet local growth challenges and to help plan their future. The division works closely with local governments, other state and regional agencies, stakeholders, and the general public to ensure sound comprehensive planning and management of growth across the state. The division's primary responsibilities include implementation of the Local Government Comprehensive

Planning and Land Development Regulation Act and the Environmental Land and Water Management Act.

The Division of Housing and Community Development administers state and federal programs designed to provide community and economic development assistance. The division is primarily federally funded and provides grants to eligible local governments for infrastructure, revitalization, housing rehabilitation, and economic development. It assists public and nonprofit community organizations in identifying the needs of their low-income residents and in developing and coordinating initiatives to support citizens in meeting critical needs such as food, housing, health care, and utilities.

The Division of Emergency Management is a separate budget entity, and is not subject to control, supervision or direction by the Department of Community Affairs in any manner. The division director is appointed by the Governor, serves at the pleasure of the Governor, and is the agency head of the division for all purposes. Professional, technological, and administrative services are provided by the Department under a service agreement executed by the Department and the division.

DEM is responsible for maintaining a statewide program of emergency management. This includes coordination with the federal government, other state agencies, county and municipal governments, school boards, and private agencies. The division directs and controls the state's emergency response and recovery operations through the operation of a State Emergency Operations Center (SEOC). DEM is the State Administrative Agency (SAA) responsible for administering federal disaster response, recovery, and mitigation program grant funding; federal homeland security programs grant funding; and state funds appropriated for emergency management and domestic security purposes.

Effects of the bill

The bill reenacts the DCA and DEM.

Front Porch Florida

Current situation

Front Porch Florida, an initiative established in 1999 with the designation of six communities as "Front Porch" communities through a competitive application process. The initiative began as part of the budget process and was initially administered by the Office of Urban Opportunity (OUO) whose purpose was to administer the Front Porch Florida Initiative, a comprehensive, community-based, urban core redevelopment program to empower urban core residents to craft solutions to the unique challenge of each designated community. In 2004, the OUO was moved to the Division of Housing and Community Development. The Front Porch Florida Initiative provides distressed communities with the means to renew and revitalize their neighborhoods. The technical and program assistance available through the Front Porch Initiative offers communities assistance in a holistic, collaborative planning process, partnerships with local governments to help implement the community's plans.

The Florida Senate's Committee on Community Affairs conducted a review of the Front Porch Florida Initiative and in its Interim Project Report 2008-110 dated October 2007 recommended "If the committee wishes to encourage continued funding of the Front Porch Florida Initiative, staff recommends codifying the initiative in Florida Statutes and giving DCA rulemaking authority to administer the program.

Effects of the bill

The bill amends s. 20.18 (6), F.S., to provide the DCA rulemaking authority to administer the Front Porch Initiative. The rules are not effective until ratified by the Legislature.

Florida Community Trust

Current situation

The Florida Communities Trust (FCT) is a land acquisition grant program that provides Florida Forever funding to local governments or nonprofit environmental organizations in the acquisition of community-based projects, urban open spaces, parks, and greenways that will help implement local comprehensive plans. Traditionally, funding for the FCT grant program comes from the Florida Forever program, 21 percent of the total proceeds from the sale of Florida Forever bonds, for the Parks and Open Space grant program, and another 2.5 percent of the Florida Forever appropriation for the administration of the Stan Mayfield Working Waterfronts (SMWW) grant program. FCT grants application are reviewed, evaluated and objectively scored by FCT staff. Then FCT Governing Board holds a public meeting to rank and select projects for funding, based on the final evaluation score of each project and actual funds available. The awards are grants for land acquisition where title is held by the applicant with a reverter to the State.

Effects of the bill

The bill amends ss. 380.502, 380.503, 380.507, 380.508, 380.510, and 380.510, F.S., and deletes the provisions of the FCT program and trust fund that pertain to “loans” and “site reservations”. Site reservation is the temporary acquisition of lands, a period of five years or less, by the FCT for the subsequent conveyance to a local government or nonprofit environmental organizations. Currently, the FCT program is authorized to loan funds and to temporarily acquire land. Since the inception of Florida Forever, the FCT program has neither loaned FCT funds nor acquired title to lands for the subsequent conveyance to a local government or nonprofit environmental organization.

Special District Information Program

Current situation

The Special District Information Program is created in s. 189.412, F.S., which also provides the DCA with specific duties including, but not limited to, the collection and maintenance of special district noncompliance status reports from other state entities, the maintenance of the Official List of Special Districts used by more than 685 state and local agencies to monitor special districts, the publication and updating of the “Florida Special District Handbook” which covers state special district requirements and helps hold special districts and governing board members accountable to the public, and providing assistance to local general-purpose governments and state agencies in collecting delinquent reports or information and helps special districts comply with reporting requirements, and at the direction of the Joint Legislative Auditing Committee, initiating legal enforcement against special districts not in compliance with state financial reporting requirements.

Section 189.425, F.S., provides the DCA with the authority to adopt rules to implement the provisions of the “Uniform Special District Accountability Act of 1989,” and s. 189.427, F.S., provides the Department with the authority to assess an annual fee of not more than \$175 to pay for one-half of the costs incurred by the Department in implementing the Special Districts Information Program.

Section 218.32, F.S., requires that each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.403, F.S., to provide the Department of Financial Services a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. The annual financial report must include a list of each local governmental entity included in the report and each local governmental entity or component unit, as defined by generally accepted accounting principles that failed to provide financial information. Section 218.39, F.S., establishes the requirement for audited financial statement for entities not audited by the Auditor General and requires that all such audit reports be submitted to the Auditor General within specified time frames. Included in these

requirements are special districts that meet certain financial thresholds. Both the Department of Financial Services and the Auditor General compile lists of reporting entities from the above requirements and compare these lists to the Official List of Special Districts. Information regarding discrepancies or non-reporting entities is shared with DCA. These lists of reporting entities are transmitted to the DCA and utilized by the Special District Information Program in meeting its statutory requirements.

Currently, s. 189.4035, F.S., requires DCA to compile and distribute an Official List of Special Districts, and to publish and update a Florida Special District Handbook.

Effects of the bill

The bill amends s.189.4035, F.S., to clarify the current DCA responsibilities for contacting reporting entities to determine a reporting entity's status as a special district and compiling the Official List of Special Districts. The bill also clarifies the responsibilities of the Department of Financial Services and the Auditor General for identifying reporting entities that appear to be special districts and reporting those reporting entities to the DCA. The requirements to distribute the Official List of Special Districts and to publish the Florida Special District Handbook are abolished, and the DCA is authorized to make lists and the handbook available electronically.

Small County Technical Assistance Program

Current situation

The Small County Technical Assistance Program was created by s. 163.05, F.S., for the purpose of providing technical assistance to small counties to enable them to implement workable solutions to financial and administrative problems. Administratively, the program is under the Department of Agriculture and Consumer Services (DACS). The program has not received funding in the last three fiscal years, and during the last two budget reductions exercises, the Department of Agriculture and Consumer Services proposed eliminating this program, noting that it was not mission critical.

Effects of the bill

The bill amends s.163.05, F.S., substituting the DCA for DACS.

Hurricane Loss Mitigation Program

Current situation

The Hurricane Loss Mitigation Program (HLMP) within the DCA was created in 1999, with an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund (FHCF). The purpose of the HLMP is to fund programs for improving the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance. It also funds cooperative programs with local governments and the federal government designed to reduce hurricane losses or the costs of rebuilding after a disaster. Three million (\$3m) from the HLMP is statutorily directed to retrofitting existing public facilities to enable them to be used as public shelters during a disaster. Seven million (\$7m) is statutorily directed to makes up the Residential Construction Mitigation Program (RCMP) of which 40% is directed to the Manufactured Housing and Mobile Home Mitigation and Enhancement Program, and 10% is directed to the Florida International University for hurricane research. The remaining 50 percent (\$3.5 million) is directed to programs developed by the DCA with advice from the Hurricane Loss Mitigation Program Advisory Council to help prevent or reduce losses to residences and mobile homes or to reduce the cost of rebuilding after a disaster. The council is responsible for advising the division in support of the Residential Construction Mitigation Program (RCMP), and makes recommendations for approving applications for program grants to state or regional agencies, local governments, and private organizations. These grants are awarded to help

these entities implement projects intended to enhance residential wind mitigation. The council also annually reviews and approves Florida International University's hurricane research work plan.

Effects of the bill

The bill amends ss. 215.559(4) and 215.559(5), F.S. eliminating the advisory council, and transfers all powers, duties, functions, records, personnel, property; unexpended balances of appropriations, allocations, or other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Hurricane Loss Mitigation Program Advisory Council to DEM.

Century Commission for a Sustainable Florida

Current situation

The Century Commission for a Sustainable Florida was created in 2005 as a standing body charged with helping the state to envision and plan for the future using a 25-year and a 50-year planning horizon. The Century Commission must submit an annual report containing specific recommendations for addressing growth management in the state. The report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, must also contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection with future development, as well as, recommendations regarding dedicated funding sources for sewer facilities, water supply and quality, transportation facilities, and educational infrastructure.

The Century Commission is composed of 15 members representing local governments, school boards, homebuilders, developers, and the business, agriculture, and environmental communities. Five members are appointed by the Governor, five members are appointed by the President of the Senate, and five members are appointed by the Speaker of the House of Representatives. Meetings must be held at least three-times-a-year in different regions of the state to collect public input and the Department provides staff and other resources necessary for the Century Commission to accomplish its goals.

Effects of the bill

The bill amends s. 201.15(1)(c), F.S., eliminating the distribution of funding to the Century Commission.

B. SECTION DIRECTORY:

- Section 1 Reenacts and amends s. 20.18, F.S., relating to DCA and DEM.
- Section 2 Amends subsection (3) of s. 380.502, F.S., relating to the FCT program.
- Section 3 Amends subsection (12) of s. 380.503, F.S., and renumbers subsections (13) through (18) of s. 380.503, F.S., as subsections (12) through (17), respectively, relating to the FCT program.
- Section 4 Amends subsections (2), (3), (6), and (7) of s. 380.507, F.S., relating to the FCT program.
- Section 5 Amends subsections (4) and (5) of s. 380.508, F.S., relating to the FCT program.
- Section 6 Amends s. 380.510, F.S., relating to the FCT program.
- Section 7 Amends subsections (2) and (3) of s. 380.511, F.S., relating to the FCT program.
- Section 8 Repeals ss. 163.455, 163.456, 163.457, 163.458, 163.459, 163.460, 163.461, and 163.462, F.S., relating to the Community-Based Development Organization Assistance Act.
- Section 9 Amends s. 189.4035, F.S., relating to the Special District Information Program.

- Section 10 Amends subsections (2) and (3) of s. 189.412, F.S., relating to the Special District Information Program.
- Section 11 Amends s. 189.427, F.S., relating to the Special District Information Program.
- Section 12 Transfers by a type two transfer, as defined in s. 20.06(2), all powers, duties, functions, records, personnel, property; unexpended balances of appropriations, allocations, or other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Small County Technical Assistance Program in the Department of Agriculture and Consumer Services, as authorized and governed by s. 163.05, F.S., to the Department of Community Affairs.
- Section 13 Reenacts and amends s. 163.05, F.S., relating to the Small County Technical Assistance Program.
- Section 14 Amends subsections (4) and (5) of s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program
- Section 15 Transfers by a type two transfer, as defined in s. 20.06(2), F.S., all powers, duties, functions, records, personnel, property; unexpended balances of appropriations, allocations, or other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Hurricane Loss Mitigation Program Advisory Council in the Division of Emergency Management of the Department of Community Affairs, as created by s. 215.559(5), F.S., to the Division of Emergency Management.
- Section 16 Amends paragraph (c) of subsection (1) of s. 201.15, F.S., as amended by chapter 2009-271, L.O.F, relating to funding for Century Commission for a Sustainable Florida.
- Section 17 Provides the bill's effective date, July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill eliminates the funding distribution for the Century Commission for a Sustainable Florida.

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 affect municipal or county governments.

2. Other:

B. RULE-MAKING AUTHORITY:

The bill provides the DCA rulemaking authority to administer grants awarded under the Florida Front Porch Initiative and the Hurricane Loss Mitigation Program. Each rule requires ratification by the Legislature before becoming effective.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES