



# The Florida Senate

*Interim Project Report 98-21*

*October 1998*

Committee on Executive Business, Ethics and Elections

Senator Charlie Crist, Chairman

## A REVIEW OF STATUTORY PROVISIONS THAT RELATE TO APPOINTMENTS REQUIRING SENATE CONFIRMATION

### SUMMARY

There are 186 statute cites and 10 Special Acts that govern the appointments of public officers and members of boards and commissions requiring Senate confirmation. The statutes contain language specifying the terms and qualifications of the members.

The purpose of the interim project was to review these statutory provisions and identify conflicting language. In addition to identifying conflicting statutes relating to the same board, staff found many statutory provisions which are no longer necessary. Most of these provisions provide language for the initial terms of board members, to allow for staggered terms. In addition, there are several boards that require Senate confirmation for certain designated persons on the board. The Senate may wish to review these statutes to determine if there is a need to confirm these individuals. Finally, the terms of several boards and commissions are established by administrative rule, rather than by statute. The Senate should consider establishing the terms of these members by statute.

A thorough examination of the statutes revealed a need to make numerous changes for clarity and consistency.

### BACKGROUND

The Florida Senate confirms an average of 425 gubernatorial and other appointees each year. This includes appointees to approximately 170 boards and commissions and secretaries of departments of the executive branch, executive directors of water management districts and various other officials.

In reviewing the files for appointees, staff discovered that provisions relating to certain boards, particularly

the regulatory boards under the Department of Business and Professional Regulation and the Department of Health, are not consistent. These boards have shifted between departments over the years and at times new statutory sections have been created which conflict with existing sections governing the same board.

Additionally, various statutory provisions are unclear or outdated. Committee members must have the most accurate information available when determining if an appointee meets all of the qualifications for the office.

### METHODOLOGY

Staff compiled a list of all statutes that relate to the Senate's confirmation of public officers and members of boards and commissions. The current Chapter laws were reviewed to determine if any changes to these statutes had occurred during the 1998 Session of the Florida Legislature. The statutes were then cross referenced to identify conflicting language relating to the same board. In addition, staff reviewed the statutes to identify obsolete provisions and other provisions which the Senate might wish to consider changing.

Special Acts that established boards many years ago were reexamined and researched to assure that no other provision had replaced or revised the Acts. Additionally, administrative rules and by-laws for boards whose members' terms are set by rule were reviewed to determine if these provisions should be established by statute.

### FINDINGS

In reviewing all of the statutory provisions relating to appointments requiring Senate confirmation, staff found a number of provisions which need revision. These provisions relate to obsolete transition language, conflicting language where two statutes regulate the same board, and boards which have established terms

of members by rule rather than by statute. In addition, there are some boards which require confirmation of appointees which may not need Senate confirmation. Finally, the language relating to several boards is in need of clarification.

#### *Transition Language*

There are numerous provisions containing obsolete transition language relating to the terms of board members. Generally, when boards are established with members' terms of four years, the statutes provide for the initial members of the board to receive terms of one, two, three and four years, in order to provide for staggered terms of members. Following the initial appointments, members serve a full four-year term. Once the initial appointments are made, there is no longer a need for the transition language to be included in the statutes.

#### *Conflicting Language*

Chapter 20, Florida Statutes, contains provisions governing the terms of board members serving on various boards within the jurisdiction of the Department of Business and Professional Regulation and the Department of Health. These Chapter 20 provisions govern all boards under the respective departments. In some cases, the specific statute regulating a board contains language which conflicts with the provisions of Chapter 20.

#### *Terms of Members Set by Rule*

There are several boards which do not provide for the length of terms of members by statute. Specifically, Regional Planning Councils and Boards of Trustees of Community Colleges have established the terms of the members by administrative rule. In the case of Regional Planning Councils, each council has set the terms of their council members. Terms of members of Regional Planning Councils have terms of two years, three years, or may serve at the pleasure of the Governor, depending on the specific Council.

#### *Specific Persons on Boards*

Some boards have provisions requiring certain designated persons to be appointed to the board. For example, the Board of Directors of the International Trade and Economic Development Board requires the chairperson or the chairperson's designee of the following organizations to be appointed and

confirmed: World Trade Association of Florida; Florida Airport Managers Association; Florida Custom Brokers and Forwarders Association; Florida International Banking Association; International Law Section of the Florida Bar; and Latin Chamber of Commerce of the United States. Since the Legislature has expressed through statute that certain organizations should be represented on the board, there may not be a need for the Senate to confirm these members. In addition, the chairperson of these organizations is likely to change before the four year term of the board has expired, requiring recurring Senate confirmation for the same position.

Similarly, the language creating the Board of Supervisors of the Spaceport Florida Authority requires confirmation of one Senator and one House member, even though they are ex officio non voting members of the authority. Under these circumstances, there does not appear to be a compelling reason to confirm these members.

#### *Clarification of Language*

During the review process, staff found several provisions which were either unclear or the language was outdated. For example, both the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission require a legislator who is a member of the House Committee on Commerce and Reciprocal Trade, as designated by the Committee on Commerce and Reciprocal Trade, to be appointed to each of these commissions. Even though these particular appointments are not subject to Senate confirmation, the Senate may wish to clarify these provisions, since there is no such committee in the House.

## RECOMMENDATIONS

Based on the findings by staff, it is recommended that a bill be introduced during the 1999 Session of the Legislature to:

- repeal obsolete language;
- conform the conflicting language;
- provide in statute for the terms of office of board members whose terms are currently established by rule;
- eliminate the Senate confirmation of those board members which the Legislature has specifically required to be appointed to boards; and
- clarify existing language where needed.

In addition, it is recommended that the substantive committees with jurisdiction over the various boards be provided with information relating to these issues so that future changes will conform.

### **COMMITTEE(S) INVOLVED IN REPORT** (*Contact first committee for more information.*)

Committee on Executive Business, Ethics and Elections, 404 South Monroe Street, Tallahassee, FL 32399-1100, (850) 487-5828  
SunCom 277-5828

### **MEMBER OVERSIGHT**

Senator Lee and Senator Geller