



The Florida Senate

Interim Project Report 2000-54

September 1999

Committee on Governorial Appointments and Confirmations

Senator William G. "Doc" Myers, Chairman

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

SUMMARY

During the 1998 interim, a thorough examination of the statutory provisions relating to appointments requiring Senate confirmation revealed a need to make numerous changes for clarity and consistency. This interim project by the Committee on Executive Business, Ethics and Elections resulted in a bill filed by the Committee on Governorial Appointments and Confirmations during the 1999 Legislative Session. Senate Bill 712 passed the Senate by a unanimous vote but died on the House Calendar. Staff of the Committee on Governorial Appointments and Confirmations has reviewed the statutory changes made during the 1999 Legislative Session and updated this bill for consideration during the 2000 Session.

The purpose of the interim project was to review 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. 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.

This report reconfirms a need to provide clear and consistent statutory provisions that govern the appointments of public officers and members of boards and commissions requiring Senate confirmation.

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. Chapter laws were reviewed to determine if any changes to these statutes had occurred during the most recent 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. 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. 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.

Senate Confirmation of Legislators

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 nonvoting 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.

Other Provisions

During consideration of the bill in 1999, two additional provisions not included in the original project were considered and approved by the Senate. These provisions are included in the recommendations for legislation in the 2000 Session.

The Governor appoints and the Senate confirms various agency heads. All secretaries of departments of the executive branch are confirmed and many executive directors of various offices and departments are also confirmed. One notable exception of a position appointed by the Governor which does not require Senate confirmation is the Director of Health Care Administration. The Senate voted that this position be one which is confirmed by the Senate.

In addition, in 1996 the number of members of the Parole Commission was reduced from six to three. Due to the reduction of commissioners, the number of cases per commissioner has increased. In order to complete its work, the commission has had to hire former commissioners on a temporary basis. The Parole Commission has requested an increase of one member to reduce the commission's use of temporary commissioners.

RECOMMENDATIONS

Based on the findings by staff, it is recommended that a bill be introduced during the 2000 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 the Senator and House member who serve as ex officio nonvoting members of the Board of Supervisors of Spaceport Florida Authority;
- clarify existing language where needed;
- require Senate confirmation of the Director of Health Care Administration; and
- increase the number of members of the Parole Commission from three to four.

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

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MEMBER OVERSIGHT

Senators Myers and Dyer